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**RICH LAW, POOR LAW: DIFFERENTIAL RESPONSE TO  
TAX AND SUPPLEMENTARY BENEFIT FRAUD**

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#### ABBREVIATIONS

The following abbreviations will be used throughout the thesis:

O.V.S. denotes an official verbal source of information which, for reasons of confidentiality cannot be named.

O.W.S. denotes an official written (unpublished) source which cannot, for reasons of confidentiality, be attributed.

## ABSTRACT

People who (in relation to their personal taxation) defraud the Inland Revenue and people who (in relation to their supplementary benefit payments) defraud the Department of Health and Social Security are similarly engaged in economic crimes which result in loss to the public purse. These crimes provoke differential political, official, judicial and public responses. Differential response to tax and supplementary benefit fraud can neither be explained by reference to qualitative differences in the commission of the illegal acts involved, nor by the crude suggestion that differential regulation of tax and benefit fraud is nothing more than a conspiracy of the rich against the poor. Rather, such differential response derives from the different combinations of legal, economic, social and ideological histories of these two forms of fraud. In this thesis, analysis of these differential and combinatory histories centres on the material conditions and ideological discourses within which differential response is made possible. In addition the vocabularies of motive offered for both the commission and regulation of tax and supplementary benefit fraud are analysed. These analyses together reveal that differential and shifting material and ideological conditions create different opportunities and justifications for both tax and supplementary benefit fraud. At the same time they also enable policy makers continually to change the modes of regulation of both types of crime. The bulk of the thesis is aimed at demonstrating how and why knowledges about taxation and welfare are not immutable but are forever open to deconstruction and challenge.

## INTRODUCTION.

### THE PROBLEM

The slogan that there is 'one law for the rich and another for the poor' is often used to describe, in commonsense terms, the differential response to those who 'fiddle' taxes and those who 'fiddle' welfare benefits. But such assertions are not explanations. The analysis that follows therefore aims to go beyond assertion - to describe how and explain why tax and supplementary benefit fraud receive such totally different social responses.

### THE RESEARCH.

#### Phase 1- Locating the object of research.

Initially, the first objective of the research was to confirm the existence of differential response to tax and supplementary benefit fraud at an empirical level. This was to be done by an investigation of the following:

- (i) the circumstances under which fraudsters operate in order to gain financial advantage illegally from the state;
- (ii) the processes involved in the policing of fraudsters by regulatory agencies;
- (iii) the management of fraudsters' punishments, and the ways in which their offences are interpreted by others.

Once this had been done the second objective was to explain the differential responses to tax and benefit fraud by attempting to theorize the economic and political conditions and the social ideologies that have made such a differential response possible. In this way the research had



the overall objective of generating a new set of problems and a new agenda for discussion.

### Phase 2- Deciding what to do.

The knowledge gained in the initial phase of the research generated a set of more specific research aims. These can be summarised as follows:

1) The examination in detail of:

(a) the techniques used by tax and supplementary benefit fraudsters to defraud the state.

(b) the rationales they employ to justify their actions.

2) The examination in detail of:

(a) the techniques used by investigators regulating tax and supplementary benefit fraud.

(b) the rationales offered by the two enforcing departments for both their anti-fraud policies in general and their effective investigatory practice in particular.

3) The elucidation of common themes in the representation of taxpayers and benefit claimants in political, departmental and judicial discourses.

The first examination was carried out by means of in-depth interviews with tax and benefit fraudsters, (together with an analysis of complementary secondary source material). The second was based upon interviews with Revenue and D.H.S.S. spokesmen and unofficial conversations with departmental staff. Other sources were used to confirm and augment comments by departmental staff. (For instance, Public Accounts Committee reports on both Revenue and D.H.S.S. investigation policy, and ministerial pronouncements were examined).

In directing research towards these specific issues the initial problem of differential response to tax and benefit fraud was deconstructed in terms of its constituent parts: subsequent analysis therefore focussed on (1) the fraudsters, the investigators, and the enforcing departments and (2) the political, economic and ideological preconditions which framed their actions and policies.

### Phase 3- Deciding on the theoretical analysis to be undertaken.

In order to deconstruct 'the problem' and to identify the conditions which have enabled differential response to tax and benefit fraud to develop, the research had to

(1) Examine in detail both the social processes and discourses giving rise to differential response in practice and the broader social, political and ideological conditions under which these processes were made possible.

(2) Engage in a variety of methodological procedures in order to analyse the modes through which differential response became apparent: for instance, its manifestation through social interaction in communities, departmental policy, political and judicial discourse, and ideological construction (for example in commonsense and media discourses).

As a focus for investigation I posed the following questions:

(1) How do otherwise law-abiding people come to commit economic crime by means of tax and supplementary benefit fraud?

Such law-breaking is often a learned activity: for instance, in the case of tax fraud, workmates or business colleagues can offer positive definitions of tax crime as either shrewd business practice, or simply as a chance to beat the taxman (Sutherland, 1960). Similarly it can be argued that amongst many supplementary benefit claimants fraud is not perceived



as 'criminal' because of the dominance of definitions of fraud as an understandable response to the problems of poverty. In this way Sutherland's theory of differential association illuminates some of the analyses by focussing on the way in which criminal behaviour is learned in association with those who define such behaviour favourably and in isolation from those who would define it unfavourably (Sutherland, 1960). However, it is essential to analyse in more depth precisely how these fraudsters justify their crimes, (both to themselves and to others), in attempts to avoid unfavourable (criminal) definitions of their actions.

The justifications which fraudsters offer therefore had to be analysed in order to explain what specific vocabularies are successfully (and unsuccessfully) invoked to excuse their illegal actions. As David Matza (1964) argued, criminal actions do not indicate a commitment to 'deviant' values: rather, law-breaking is made possible through the use of excuses and rationalizations which he terms 'techniques of neutralization' by which individuals retain their commitment to the norms of mainstream society. These techniques may involve denial of responsibility for the act: for instance a benefit claimant may displace direct responsibility by arguing that poverty and deprivation are responsible for fraud. Denial of harm or injury is another technique of neutralization. This technique, for instance, was used by a benefit fraudster who said that he had not, after all, 'hurt' anyone (see Chapter 5 (3)). A further technique involves shifting responsibility for the act away from the individual by condemning those who enforce the rules: for example tax fraudsters frequently blame the Revenue for its allegedly complex and harsh regulations (see Chapter 4(1b)). Similarly benefit fraudsters often blame the D.H.S.S. bureaucracy for creating a situation in which fraud represents a rational response to

the vagaries of the benefit system (see 'swings and roundabouts', Chapter 4 (2b)). Particularly interesting is the way in which one set of mainstream values (for instance the tax fraudster's commitment to the accumulation of wealth and entrepreneurialism), may be used to justify breaking the law. The work of Matza has therefore been useful in exploring the justificatory rhetoric of fraudsters, though it does not go so far as to explain why tax fraudsters can invoke certain justifications successfully whereas benefit fraudsters engaged in similar activities cannot.

In addition to techniques of neutralization, fraudsters' justifications also involve complex rhetorics of self-adjustment (Taylor, 1979). Such rhetorics may be purposive, serving to protect the individual's conscience before the commission of the illegal act: for instance, a benefit fraudster may justify fiddling 'for shoes for the kids' or to pay a fuel debt to avoid the disconnection of the fuel supply. Of course, this 'justification' may be seen as a justifiable explanation for fraud. However, in calculating culpability courts of law tend to conflate one with the other but use only the language of justification. Explanations which are not justifications in the law's terms have to be suppressed (Carlen, 1976).

Alternatively, rhetorics of self-reconciliation may be invoked after the act has taken place: for example, the justification of the arbitrary 'swings and roundabouts' of the benefit system (already mentioned) may be used by a benefit fraudster who fails to inform the D.H.S.S. of an advantageous change in financial circumstances because this would have delayed his/her benefit payments. But, as Ditton (1977) argues, there may not be any particular relevance in whether motivational rhetorics were invoked before or after the act: what is significant is that the individual



feels that s/he has acted in a justifiable way, with an apparent cause. For instance, in the case of tax fraud it may be possible for an evader initially to justify fraud on the grounds of an intrusive, stifling and over-taxing state. Yet after the event s/he may justify not declaring income to the Revenue by arguing that the Revenue did not ask for the information to be furnished (see Chapter 4). The issue of which justification came first, (whether 'excessive taxation' or 'you didn't ask me'), makes little difference to the individual who is able to offer a complex rhetoric of motivation.

(2) How do departmental personnel justify their implementation of official policy in (differentially) regulating the activities of claimant and taxpayer?

In addition, therefore, to analysing the language of motive impelling the two departments, it was essential to specify which explanations and justifications were absent from their accounts. The absence of certain motivations and explanations from official discourse serves to present the issues of tax and benefit fraud in very specific ways. The nature of official discourse surrounding personal taxation and welfare provision was therefore explored so that the theoretical foreclosures which prevented alternative discourses from emerging could be examined (Burton and Carlen, 1977). For example, both the Revenue and the D.H.S.S. prefer to be seen as motivated by objective, technical, efficiency-based, even bureaucratic factors. But in avowing such official discourse the two departments systematically preclude alternative interpretations of their rationales, alternatives which would destroy the 'pre-givens' of the discourse itself (ibid). In the case of the D.H.S.S. discourses relating to supplementary benefit payments stress the goals of administrative efficiency and the

accurate targetting of benefits according to demonstrable 'need'. Alternative discourses could focus upon the goals of social justice, the elimination of poverty and payment of benefits as of 'right'. In the case of the Inland Revenue official discourse stresses administrative efficiency which is interpreted as collecting tax while sparing the taxpayers' feelings (Chapter 5). Alternative discourse would indicate the contradictory effects of these ostensibly pragmatic goals and focus instead on the efficient collection of taxes through such means as increasing Revenue manpower, issuing returns to taxpayers at regular intervals (of not less than three years), and publishing the names of defaulters as a deterrent to evasion. As all these alternative discourses have been articulated in recent years (see Keith Committee Report, Cmnd 8822, 1983), the prime theoretical task of this research was to identify the conditions, material and ideological, under which official discourses on taxation and welfare triumph while alternatives to them fail.

(Definitional note - at this point it is apposite to define my usage of the terms 'ideological' and 'material'. For the purposes of this thesis, the term 'ideological conditions' will be used to refer to particular sets of ideas and already-known constructs which people use to apprehend, understand and present their social world. Ideological conditions have material effects in that they shape how people deal with and respond to the social world. 'Material' conditions refer to circumstances which exist independantly of ideological presentations, which are beyond the control of governments but which demand responses. For example, the material conditions of famine, scarcity, war and international economic circumstances).



The task, (of examining the material and ideological preconditions for official and alternative discourses), involved an analysis of political, economic and social discourses about taxation and welfare policies. It is within these discourses that explanations of both official and alternative responses to claimant and taxpayer can be located. They have effects according to the ways in which they are realised in organizational and political contexts. Therefore, once the investigative part of the project was completed I decided to analyse the empirical material in an attempt to theorise:

(a) the nature of the contradictions between the stated goals and effective practice of social policy relating to personal taxation and to welfare provision in modern Britain.

(b) the context and form of the interactions between Revenue/D.H.S.S. staff and claimant/taxpayer through which these contradictions were realised.

In general the mode of analysis used in the research centred upon an examination of the vocabularies of motive utilized by those involved in the commission, regulation and punishment of tax and supplementary benefit fraud. These vocabularies are differentially distributed within society and the justificatory rationales of certain groups are more readily accepted than the (negotiated) reasons which other groups offer for essentially similar actions (Taylor, 1979). The irony of the overlap of motives for tax and benefit fraud is a central focus of this thesis. Whilst similar motives can be offered for tax and for benefit fraud, (for example the justification that 'everyone is doing it'), these motives are not attributed always the same meanings in either official or popular discourses. It may be argued, for example, that tax evasion is a logical response to

diminishing economic incentives to effort, yet the incentives argument is turned on its head when applied to supplementary benefit claimants who may effectively suffer 100% 'tax' on legitimate marginal earnings (see Chapter 4). Similarly, the entrepreneurial spirit evident in the 'thriving' black economy may be welcomed when it is demonstrated by some citizens, but not if they are in receipt of welfare benefits (Chapter 4).

#### Phase 4- The Empirical Work

Both tax and supplementary benefit fraud are partly hidden activities and this gives rise to obvious difficulties in researching the area. In order to analyse the techniques and justificatory rationales of the fraudsters, I first had to seek out individual fraudsters, (whose illegal fiddles may or may not have been detected by regulatory agents), and obtain their confidence and co-operation. At the same time it was necessary to get a picture of what those regulatory agents were doing to detect fraud and police taxpayers and claimants. But, as their investigatory work depends for its success on the concealment of their techniques from the individuals they police, there was understandable reticence on the part of the enforcing departments to discuss their 'modus operandi'. The problem of secrecy was thus experienced from two vantage points: first from the perspective of the fraudsters who, if undetected, were anxious to retain both anonymity and secrecy regarding their sometimes distinctive fiddles. Second, from the perspective of the investigators, whose departmental bosses were often preoccupied with 'official secrets' to an absurd extent, (particularly as some of the 'secrets' of investigation work were in reality well known, as will be seen below).



The immediate problem facing me was therefore one of entry into a hidden area of social activity and into a hidden area of social regulation. I attempted to overcome some of these problems by seeking official co-operation from both the Inland Revenue and the D.H.S.S. by writing to the managers of four local offices outlining my research and requesting an interview. The two Tax District Offices responded in similar terms (see copy of reply in Appendix), referring me to departmental headquarters. But in the case of the D.H.S.S. the responses were varied and ultimately contradictory. Following my initial written request for local co-operation I telephoned managerial officials in the two offices. They both offered me (verbally) interviews with fraud staff, and in one case a period of observation ('two or three days') alongside local office staff. However, the situation changed rapidly following a second phone call to one office in which I mentioned that I had previously worked for the D.H.S.S., (this admission being made to emphasise my appreciation of the need for confidentiality both for the protection of both claimants and to retain certain confidential office procedures). This manager then consulted his regional and, apparently, national superiors which resulted in a firm warning to me that if I still wished to continue with the research, the results would have to be submitted to 'Personnel Section for clearance' (copy of letter in Appendix). This letter effectively precluded any possibility of office observation or close co-operation (officially) with D.H.S.S. staff. Consequently, I adopted an alternative strategy which in part relied on the official information provided by the headquarters contact, to whom I was advised to address future queries.

To overcome this setback I approached representatives of the two civil service trades unions which represented most of the D.H.S.S. staff - the

Civil and Public Services Association (C.P.S.A.) and the Society of Civil and Public Servants (S.C.P.S.). Both organizations were, from the early 1980's, campaigning vigorously against D.H.S.S. anti-fraud policy and they provided a variety of useful documentary material, for instance, describing the operational excesses of S.C.C.U.'s and the dubious nature of the resulting estimates of 'benefit savings'. In addition I sought to cement existing informal contacts with one or two D.H.S.S. officials I had met, although the information they provided to me had to remain strictly confidential to protect these officers from possible disciplinary action under the Official Secrets Act. The same strategy was adopted in the case of the Revenue: the Inland Revenue Staff Federation (I.R.S.F.) provided a useful source of information and comment, and existing personal contacts amongst Revenue staff were utilised, giving due care to ensuring the anonymity of officers involved. But, it should be stressed that the staff in both departments who gave informal help did not in any way jeopardise the confidentiality to which all claimants and taxpayers have a right: all our discussions centred on the techniques of fiddling and of investigating fraud, but no specific cases were discussed as this would have amounted to an unacceptable breach of trust. Equally, these officers did not, I feel, breach the spirit of departmental rules on confidentiality as they were acutely aware of their professional responsibilities to the public and to the departments they served.

In the case of the D.H.S.S. my former employment as an executive officer had proved to be a disadvantage in obtaining formal access for research. However, at an informal level this experience proved to be an invaluable background for my research and also useful in cementing alternative contacts. As far as the Inland Revenue was concerned, my

former employment as a Tax Officer did not appear to be a significant factor in my being referred to headquarters for information. But in both cases my own work experience proved an advantage: I knew the framework of Revenue and D.H.S.S. organization and what questions to ask of both departmental officials and taxpayers/claimants. Crucially, I knew what it felt like to be a member of staff in two very different departments whose job was in part characterised by different perceptions of the 'customer' on the other side of the office counter, or at the other end of the telephone.

Having been referred by local Tax and D.H.S.S. offices to key (named) departmental staff at national headquarters, I contacted both individuals and arranged either to interview them, or to submit written lists of questions to them which I followed up with discussions over the telephone when clarification or additional questions were necessary. In this way a channel was kept open for 'official' comment, albeit from one or two key personnel rather than a larger sample of departmental staff. (However, the staff concerned held responsibility for the implementation and monitoring of departmental anti-fraud initiatives and therefore provided an excellent source of official comment). This strategy of utilizing 'key informers' arose in response to problems of access to the two departments at local level, but it proved to be a productive research technique: once established, these contacts generated 'off the cuff' comments as well as 'official' information and so often provided a good testing ground for my own ideas and hunches during the process of research. Given the difficulties (discussed above) in obtaining access to such sensitive areas of state regulation, research initially proceeded on the basis of empirical information generated by

a) Key (official) personnel

- b) Unofficial departmental staff contacts
- c) Representatives of the main D.H.S.S. and Revenue trades unions
- d) A variety of secondary source material from campaigning groups, (such as the C.P.A.G.)
- e) Material generated by official government publications, (such as the Public Accounts Committee and the Keith Committee).

Gaining access to the accounts of the fraudsters proved almost as difficult. Early approaches made to the Probation Service and Magistrates' Court, with a view to discussing supplementary benefit fraud proceedings, proved fruitless (my telephone calls were not returned and my letters received no replies). Citizens Advice Bureaux staff were unable to arrange for me to attend interviews with claimants involved in fraud proceedings because of the need for client confidentiality. But advisers were able to discuss their knowledge of some (unnamed) cases of supplementary benefit fraud. These discussions provided useful verification (in general terms) of investigation procedures which were later described to me by some supplementary benefit claimants in their accounts of the experience of D.H.S.S. regulation. First hand accounts of life on supplementary benefit were obtained from local contacts. Fifteen claimants were interviewed: a few had personal knowledge of D.H.S.S. investigations and two had been convicted of fraud. Conversations with claimants were useful in providing an insight into the nature of relations between claimants and departmental staff and, importantly, focussed my attention on the material conditions under which some claimants are driven to commit fraud.

A key problem in eliciting information from all interviewees was that of developing trust. Several strategies were used to secure trust: first, the minimizing of social distance between the interviewee and myself. This



was particularly important in the case of benefit claimants who would have been both suspicious and hostile had the researcher's manner and tone resembled 'authority' in general or the D.H.S.S. staff manner in particular. Interviews were therefore as informal as possible, taking place wherever the claimant felt most comfortable, usually in his/her own home. Note-taking only proceeded with the claimant's permission and was kept to a bare minimum. I always took care to reassure interviewees of the confidentiality of my research and that if their comments were to be quoted, they would be attributed to fictitious names. Other factors entering into the 'building of trust' were subjective: simply to do with smiling and/or joking a little to put people at their ease, not pushing claimants to divulge information they did not want to, and at all times having respect for the individuals concerned. Significantly, halfway through one interview a female claimant said 'I didn't intend to tell you this, but...' and she went on to tell me that she was currently cohabiting with her boyfriend. I took this to mean that trust had indeed been established as she had no fear that I would directly or indirectly inform the D.H.S.S. of this admission.

The problem of trust manifested itself in a different form where interviewing departmental officials was concerned. With 'elite' interviewees, the emphasis was upon reassuring them of the integrity and the a-priori knowledge of the researcher before the interview began. In this way officials would feel that I was 'in the know' anyway, and so their comments could be rationalised as only confirmatory. In addition, I hoped s/he would feel that I could be entrusted with additional knowledge, being appreciative of issues such as confidentiality and the departmental organizational constraints acting upon such officials. In this way the

interviews could proceed as conversations between two equals, although at the same time the strategy that Johnson called 'identity spoilage' came, unwittingly, into play (Johnson, 1971). For instance, this may have involved divulging a little personalised information at times during the conversation in order to assure the interviewee of the researcher's 'humility', or as an aside to prompt exploration of a key issue in more depth. Rather than being a conscious 'strategy', this attempt to put another at ease and to establish a personal rapport developed unconsciously.

Throughout all interviews, whether with taxpayers, claimants, fraudsters, senior official spokesmen or departmental staff, one conscious strategy was that of 'playing it safe'. This mainly involved employing open questions, (and limiting the number of specific questions), as open-ended questions allowed for a more free and full response. These responses often helped to raise new issues which had not been previously anticipated (and so would have not surfaced in the context of a tightly structured interview). It was particularly necessary to play it safe and adapt to the needs of the interviewee in the case of departmental staff: they were often defensive, either in relation to their department's anti-fraud initiatives, or (more usually) in relation to their own vulnerable position in revealing aspects of their work to an 'outsider'. Although the pressure of secrecy exerted upon civil servants is considerable, I was less of an 'outsider' in view of my own experience in both the Revenue and the D.H.S.S. and this factor helped me to assess when staff were becoming anxious, and so when to play it safe by changing the direction of the interview, or by reassuring the interviewee.

Interviews formed the central core of the research, but in relation to some of the research aims they were inappropriate. For instance, in aim (3) attempts to analyse the modes of representation of tax and benefit fraudsters in judicial discourses would ideally have involved access to those judicial comments and observation of the court proceedings in which they take place. But within the timespan of this research it was not possible to pre-plan the observation of prosecution proceedings for tax and supplementary benefit fraud. The first problem was simply that of notification of when such cases were due in court. My efforts to use local journalists to alert me to when D.H.S.S. prosecutions were 'on' failed because the journalists often did not know themselves and so simply turned up at court to record the day's proceedings. In the absence of any co-operation from the magistrates' court, I first attempted to find out when cases of benefit fraud were coming to court by scouring the local press for indicators of impending cases. Luckily this enabled me to identify several cases which were due to be heard on the same day, and I was able to attend court on that day and introduce myself to the magistrates' clerk. Subsequently, the clerk of the court offered me a great deal of support and co-operation, and I made contact with solicitors and probation officers who gave me an invaluable insight into problems concerning the representation and sentencing of supplementary benefit offenders. Following up on the contacts made at court proved to be extremely fruitful as I was able to obtain official data on over 206 cases of supplementary benefit fraud which had been heard in that court in the preceding six years. Although (as Appendix 4 details) much of this information was a matter of public record, it was extremely useful to have information on offenders' gender, offence, verdict, sentence, legal representation, and the award of

compensation and costs for so large a number of cases. Clearly this information would have been impossible for me to collect through observation of court proceedings given the constraints of time already discussed. In addition, it was thereafter possible to get advance notice of other D.H.S.S. cases coming to court: this enabled first hand observations of court proceedings, claimants' official and effective rationales, and judicial discourse which supplemented the hard data obtained on the 206 earlier cases.

The data on 206 supplementary benefit prosecutions (heard in one magistrates court in the Midlands) was analysed according to

- 1) Gender
- 2) Guilty/not guilty pleas
- 3) Guilty/not guilty verdicts
- 4) Whether the claimant was represented in court/not represented
- 5) Sentence passed
- 6) Whether a social enquiry report was requested
- 7) Whether a compensation order was made
- 8) Whether costs were awarded to the D.H.S.S.

(See Appendix 4 for full analysis)

Official D.H.S.S. statistics on prosecutions offer no gender breakdown, and so this alternative source of data enabled an analysis of the kinds of offences female benefit claimants commit and the sentences they are likely to receive. Also, some tentative comments could be made on shifts of practice in sentencing the poor (in an area of already high unemployment), as the recession of the 1980's deepened (N.A.C.R.O. 1987).

Prosecutions for tax evasion are extremely rare and are seldom heard in magistrates' courts. There was therefore no opportunity to parallel my



observation of D.H.S.S. proceedings in court with direct observation of Revenue proceedings. Nonetheless, many taxpayers are subject to Revenue investigation at local level and this can result in financial settlements and sometimes penalties. To overcome the difficulty posed by the comparative nature of the research, two strategies were adopted. First, I made contact with as many taxpayers as I could who had been involved in Revenue investigations. These contacts were made through 'friends of friends' and individuals I knew personally. Given the assurance of confidentiality, they demonstrated no anxiety in discussing their tax affairs, perhaps because of the opportunity that our conversations offered (for many of them) to moan about the taxman! But their descriptions of Revenue staff/taxpayer interactions provided an invaluable contrast with comparable accounts of D.H.S.S. staff/claimant interactions.

A second strategy was adopted to gain an insight into judicial discourses on tax fraud. Attempts were made to identify secondary source material on Revenue prosecutions which would offer an alternative to the impossible task of observing such a small number of potential court cases over the whole of the U.K.. I discovered that a semi-official commentary on Revenue prosecutions was reproduced in a quarterly bulletin to tax inspectors. This bulletin gives details of prosecution and defence submissions, verdict, judicial comment and sentence. Although 'confidential' in nature and circulated only to Tax Inspectors, the commentaries on proceedings which appear in the bulletin are, (as in the case of the data on supplementary benefit proceedings mentioned above), a matter of public record. Nevertheless they were a significant discovery: an important alternative source of information on judicial discourse and

essential to enable me to undertake a comparative analysis of benefit fraud cases.

Despite the constraints which secrecy (in respect of both fraudsters and investigators) imposed on this research, it was possible to build up a picture of this essentially hidden area of social interaction and regulation through a combination of official and unofficial interviews and complementary use of secondary source material. As already discussed, the 'ideal' research methods were frequently rendered impossible because of the constraints imposed by official secrecy, time and difficulties of identifying individuals who are (often) undetected criminals. Alternatives were therefore found as the research proceeded.

## STRUCTURE OF THESIS

Chapter 1 reviews literature relating to the issues of personal taxation and welfare benefits and examines themes emerging from relevant economic, legal, official, social policy, sociological and campaigning literature.

Chapter 2 analyses the differential historical, administrative, legal, economic, organizational and ideological preconditions for the commission of tax and supplementary benefit fraud.

Chapter 3 is an analytic exposition of everyday knowledge about tax and supplementary benefit fraud, (evidenced in 'official' information, the rhetoric of particular interest groups and in products of the mass media). This exposition forms the basis for the identification of vocabularies which are used to variously construct 'the problem' of tax and supplementary benefit fraud.

Chapter 4 is an examination of the techniques which tax and supplementary benefit fraudsters employ to defraud the Inland Revenue and D.H.S.S. respectively, and an analysis of the vocabularies of motive which the fraudsters use to justify their economic crimes.

Chapter 5 is an exposition of the stated (and latent) goals of Inland Revenue and D.H.S.S. enforcement policy and an analysis of the practical outcomes of these policies in terms of regulatory techniques and prosecution policy.

Chapter 6 summarises the main analytic themes which have been identified as both enabling and justifying differential responses to tax and benefit fraud, and briefly demonstrates the utility of these themes by analysing the contrasting discourses justifying the 1988 Budget and Social Security Reforms.

## THESIS

- 1) People who (in relation to their personal taxation) defraud the Inland Revenue and people who (in relation to their supplementary benefit payments) defraud the Department of Health and Social Security are engaged in economic crimes with similar result - loss to the public purse.
- 2) These crimes provoke differential responses from
  - a) Politicians who decide Inland Revenue and D.H.S.S. enforcement policy
  - b) Departmental officials who implement these policies
  - c) Judicial personnel who administer justice to those accused of tax and supplementary benefit fraud
  - d) The public, who informally adjudge the relative seriousness of both forms of fraud on the basis of the official and popular discourses available to them.
- 3) Differential response to tax and supplementary benefit fraud is therefore apparent in
  - a) The stated objectives of Revenue and D.H.S.S. enforcement policies, and the operative rationales (of compliance and control respectively) which they give rise to.
  - b) The characteristics of relations between departmental staff and the taxpayers and claimants under investigation.
  - c) The differential use of 'private' systems of justice, and differential prosecution and sentencing of tax and supplementary benefit fraud cases.
  - d) Popular responses which differentially attribute meanings and motivations for these forms of fraud.
- 4) Yet the existence of such differential response cannot be explained by the crude invocation of a theory suggesting that legal regulation of tax



and supplementary benefit fraud is nothing more than a conspiracy of the rich against the poor.

5) Historically, personal taxation and welfare provision have generated a traditional hatred of taxation as an 'intolerable inquisition', and a simultaneous grudging acceptance of the state's role in the alleviation of poverty, financed by 'the taxpayer'. These historical preconditions have also enabled the ideological construction of taxpayers as 'givers' to the state, and welfare recipients as 'takers'.

6) Tax fraudsters justify their actions by denying the redistributive goal of social justice ideology, invoking instead the values of free market individualism: thus fraud is represented as a product of entrepreneurial wealth accumulation and resistance to excessive state regulation through the Inland Revenue 'inquisition'. A complex set of self-justifications are used which enable tax fraudsters to rationalise their actions as rational, moral and non-criminal.

7) Supplementary benefit fraudsters deny the ideology of a free market within which they cannot effectively compete. They invoke the principles of social justice to justify fraud as a rational response to economic deprivation, and the personal sense of injustice and degradation engendered by the claiming process.

8) Both tax and supplementary benefit fraud are motivated by economic imperatives, but these economic motives are attributed differing meanings in both official and popular discourse, as well as in the rationales of those who enforce and those who break the laws.

9) Discourses which emphasise the functional utility of differential financial rewards create the ideological space within which the

lawbreaking activities of the most 'valuable' citizens and those of the least valuable citizens can be differentially criminalized.

10) Tax and supplementary benefit fraud are differentially - sometimes separately and sometimes concomitantly - shaped by ever-changing opportunity structures. These structures are both ideological and material.

11) Differential responses to tax and supplementary benefit fraud are not rooted in qualitative differences in the commission of the illegal acts of tax and supplementary benefit fraud. Rather, they derive from contradictions in the legal, economic, social and ideological construction of these two forms of fraud.

12) Analysis of the processes through which differential response is effected, and the vocabularies of motive which are offered for both the commission and regulation of tax and supplementary benefit fraud, reveals that differential historical preconditions, the limitations and scope of changing opportunity structures, changing economic conditions and changing ideological conditions, combine to create

a) Different opportunities for taxpayers and benefit claimants to break the law and to justify such lawbreaking

b) Opportunities for policy makers to change modes of regulating fraud, and to justify these changes.

c) Discourses within which constructs such as freedom, morality, social justice, fairness, responsibility, dependency, needs and rights can be aligned and realigned to justify completely contradictory, and sometimes complementary, policies and practices of both regulators and fraudsters.

13) The major constructs which surface and change in academic, official, popular and judicial discourses about taxation and welfare are the

principles of 'freedom' and social justice. The invocation of the competing social and economic goals of 'freedom' and of 'social justice' underlies and informs the ideological construction of taxation and welfare policies. Differential invocation of these principles give rise to a variety of official, judicial and popular discourses on the regulation of tax and benefit fraud, and ultimately to the paradoxes of differential response.

## CHAPTER 1

### A SUMMARY OF LITERATURE RELATING TO TAXATION AND WELFARE BENEFITS.

#### INTRODUCTION.

Literature relating to the issues of personal taxation and welfare is extremely wide-ranging. This diversity raises problems in adequately reviewing literature which ranges across many discrete disciplines from economics to sociology. For this literature, though ample in breadth, lacks in-depth examination of the two forms of economic crime being considered in this thesis - tax and supplementary benefit fraud. For example, the black economy is a topic of interest for economists, criminologists and those interested in the legal and social policy issues it raises, but rarely are the precise activities which constitute the 'black economy', (and the forms of regulation used to police it) analysed in depth. When tax and benefit fraud are both examined as part of this black economy, the analyses often centre upon an economic measurement of these activities rather than upon any serious comparative analysis of responses to them as forms of economic crime (Smith, 1986).

The use of terms such as the 'black economy' also raises two sets of problems: first, it involves the use of a blanket definition to describe a wide variety of activities. This problem has been explored with a view to creating a framework within which increasingly complex economic transactions can be analysed (Gershuny and Pahl, 1980; Smith, 1986). But the new terminology such work has generated is not helpful in analysing differential response to tax and benefit fraud: for instance the distinctions made between formal, informal and household economies or the overall term 'shadow economy' fail to distinguish the principle feature of



tax and benefit fraud - that this activity is illegal (ibid). Nevertheless, the tendency to avoid issues of criminality when considering illegal activities within the 'informal' economy is in itself important. It indicates a particular ideological stance which serves to distance tax crime, for instance, from 'real' crime. As such, literature on the black economy is central to an analysis of how economic crime (by means of tax and benefit fraud) may be represented in academic and popular discourse. Second, ideological problems arise from the use of the word 'black' in this context, which may be offensive to some people. For the purposes of this thesis the phrase 'black economy' is used because this is the terminology employed by much economics and campaigning literature to describe the area of economic activity which is unknown to the Inland Revenue and other regulatory departments. No connotations of skin colour are implied by the use of this term, though the issue of racism as a possible influence on the targetting of benefit claimants and taxpayers for investigation will be discussed (see Chapter 5 below).

Further definitional problems arise when utilising what is loosely termed 'white-collar crime' literature. Several sociological studies (Mars, 1983; Henry, 1978; Ditton, 1977) have given useful insights into occupational crime and 'fiddles' associated with jobs ranging from bread roundsman to supranational brokers. However, they pay more attention to the nature of work-based interactions and to factors promoting fiddling than to the way in which such activities are perceived by others and regulated by formal agencies. Although such studies are valuable in their analysis of how such occupational fiddles are learned, they cannot explain the various forms which tax and benefit frauds take, many of which do not fall within the definition of 'occupational crime' at all (see Chapter 4).

Nonetheless, their stress on the importance of opportunity structures which facilitate particular forms of fiddle is one which can usefully be applied to tax and benefit fraud (see Chapter 2(c)). In another area of 'white-collar crime', studies of corporate crime provide a valuable analysis of the economic, political and ideological factors which underpin differential response to the powerful and the powerless when they engage in lawbreaking (Pearce, 1976; Braithwaite, 1984).

To summarise, the review of literature which follows must attempt first to disentangle arguments used in studies which centre on larger and generalised concepts such as 'black economy' and 'white collar crime'. Second, these arguments must then be related to tax fraud and benefit fraud both specifically and comparatively.

A further difficulty in reviewing literature relating to taxation and welfare is its diffuse nature, ranging from macro-economic analysis to ministerial statements of D.H.S.S. and Inland Revenue policy; from official prosecution statistics and legal discourses to sociological critiques. Clearly each source has a different perspective, focusing either on tax evasion or benefit fraud, and dependant upon the conceptual orientation of the author(s). For example there are detailed descriptions of the law in relation to tax fraud (Pritchard and Jones, 1976; Lewis, 1977; Leigh, 1982) and supplementary benefit fraud (C.P.A.G., 1985; Ward, 1982; Lynes, 1985). But in the case of the former much literature is provided for and by tax lawyers, business advisers and those with vested interests in minimizing tax liability, or guiding clients through investigation procedures (Pritchard and Jones, 1976). In the case of the latter, welfare agencies such as the Child Poverty Action Group (C.P.A.G.) and National Association of Citizen Advice Bureaux (N.A.C.A.B.) see their primary goal as offering

the best advice to their clients so as to secure the rights and entitlements of claimants (Stockwell and Clapham Law Centre, 1983). For the purposes of this thesis both sets of literature need to be analysed and their differing concerns taken into account.

There is an absence of any systematic comparative analysis of tax and benefit fraud and it is this gap in the literature which the thesis seeks to fill. In view of the problems posed by the diverse and fragmentary nature of the relevant literature it will be broken down and analysed along the lines of academic disciplines and key sources of information. The starting point will be official departmental sources as the limitations of this literature provide an important guide to what precisely is and is not included in official discourse on tax and supplementary benefit fraud. Thereafter the order of this review will prioritize certain disciplines which are most closely concerned with differential response to these two forms of fraud:

- (1) Official Departmental and Ministerial statements and publications
- (2) Economics Literature
- (3) Social Policy Issues
- (4) Legal Issues
- (5) Sociological Literature
- (6) Campaigning Literature and other relevant sources.

### (1) OFFICIAL PUBLICATIONS.

Fraud and the measures used to combat it are covert activities. Secrecy therefore surrounds the issues of Inland Revenue and D.H.S.S. anti-fraud practices: in order to deter fraud the two departments need to retain a degree of confidentiality concerning their techniques of fraud prevention and regulation. But the subject of this thesis demands a knowledge of both fraudsters' techniques and the methods used to regulate fraud. For this reason official publications form an important source of information in three respects:

(1) The comprehensiveness (or otherwise) of departmental information made available to the public indicates the extent of openness (or otherwise) of a relatively secretive area of departmental activity. (In turn this may indicate the degree to which that department is seen as accountable to the public it serves, and efficient in terms of its duty to safeguard public funds (see Chapter 5)).

(2) The analysis of official Revenue and D.H.S.S. publications is important not only for the information which is provided in them, but for an analysis of what is not provided. The absence of certain types of data is, therefore, highly significant, as is the form and rhetoric of the official discourse itself: its omissions and emphases indicate the theoretical foreclosures which are created by the dominance of official discourse (Burton and Carlen, 1979).

(3) Official publications are clearly crucial in providing information which may be unavailable from any other source: for instance on the number of staff devoted to anti-fraud work, and the yield (in cost terms) of particular types of investigation (Inland Revenue, 1987).



Nonetheless, official information must be carefully and critically analysed: for instance, the means by which the Revenue and the D.H.S.S. calculate the financial 'savings' of anti-fraud work differ considerably (see Chapter 5(a)). The Inland Revenue calculates the yield from investigation work on the basis of tax found to be due as a result of their enquires. The D.H.S.S., however, calculate the figure of benefit saved as a result of their investigations on the basis of several assumptions: for instance, the weekly benefit payment is multiplied by an estimate of the number of weeks the claimant would have been likely to have illegally claimed benefit. When first implemented, this system of calculating investigation 'savings' resulted in the weekly benefit saving of a detected fraudster being multiplied by up to 52 weeks, although clearly this was far in excess of the actual amount recouped by the department. This example serves to indicate that official publications do need to be subjected to critical interpretation and analysis: departmental constraints to prove cost effectiveness and efficiency may thus influence official pronouncements/publications on the effectiveness of their anti-fraud policy. In this respect, alternative sources (for example Trade Unions representing D.H.S.S. staff), proved a useful counterbalance in assessing the validity of official statements concerning the success of anti-fraud measures.

What follows will be an indication of what official information is available concerning the enforcement role of the DHSS and Inland Revenue. Relevant sources of information will be outlined under the following headings.

(a) Tax

(b) Supplementary Benefits

(a) Tax

For the purposes of this research the most important document published by the Board of Inland Revenue is the Board's Annual Report, (originally commissioned in 1856), which is an invaluable source of information on all aspects of the work of H.M. Inspector of Taxes: for example it details the administration of the Collection of Taxes, overall departmental staffing levels and costs, manpower targets, the progress of the scheme aimed at computerising the work of the Revenue, details of compliance initiatives, investigation yields, criminal proceedings undertaken and a statement of the objectives of each section of the Inland Revenue department (Inland Revenue 129th Annual Report, 1987). In recent years this has become a far more comprehensive and weighty document, perhaps reflecting the radical changes which have taken place in Revenue organization and management. For example, it is significant that the Annual Report now includes formal statements of the Board's objectives, the most notable echoing the words of the Taxpayers' Charter (Inland Revenue, 1986) in the requirements to display efficiency and courtesy in relations with the public (Inland Revenue 129th Annual Report, 1987). The fact that the Board is able to specify such objectives in a public document is in marked contrast with the absence of any comparable statement on the part of the D.H.S.S. , as will be seen below.

Changes in the form of the Annual Report can therefore indicate other shifts in departmental priorities: for instance, such changes can reflect attempts to improve the image of the Revenue in the eyes of the public (as through the Taxpayers' Charter), or in the eyes of its own staff. The format of the 1987 Report is glossier, larger, written in relatively jargon-free language, includes many diagrams and graphs offering a

diagrammatic representation of complex matters (ranging from staff resignations to the kind of parliamentary questions raised on Revenue issues), and is now circulated to all staff: it is no longer merely a dry document for the attention of managerial staff only. The Report makes reassuring comments on the success achieved in meeting work-related targets: whether this does improve the morale of the hard-pressed (and much-reduced) Revenue staff remains to be seen. But nonetheless, the document's form and tone is geared to creating the image of an efficient, open and accountable department in the eyes of the staff and public alike. Significantly, an entire section is now devoted to 'Compliance' - the overall term given to the Revenue's attempts to regulate tax evasion and avoidance, thus ensuring the compliance of the taxpayer in paying the tax required by law (ibid). The information given here on the organization of compliance work provides a framework within which to examine regulatory practice (see Chapter 5(1)) and provides the basis for a comparison with D.H.S.S. regulation.

A more detailed account of the Revenue's investigation powers, policy and methods is given in the Keith Committee Report on the Enforcement Powers of the Inland Revenue (Cmd 8822, 1983). The Keith Report provides much detailed information on investigatory methods, previously not 'officially' available. It also includes the comments of interested parties who gave evidence to the Committee. The contributions of Tax Inspectors, Solicitors, Employer's groups, Law Society and Revenue Trades Unions (I.R.S.F. and A.I.T.) are all valuable in illuminating the following issues:

(a) The official rationales used to justify the Revenue's compliance policy: for instance, the emphasis on financial settlement rather than criminal

proceedings in most cases of tax evasion as the pragmatic and most sensible way of recouping tax lost.

(b) The alternative rationales which are implicit both in the nature of the relations between Revenue and taxpayer, and in the form and application of compliance policy: for instance the latent desire to 'spare the taxpayers feelings' in deciding on proceedings or financial penalties (see Chapter 5).

The Public Accounts Committee (P.A.C.) also provides a forum for discussion of the Revenue's investigation work. P.A.C. Reports have provided useful information on the scale and nature of evasion as well as the cost/yield ratios of different types of investigation personnel. In addition, P.A.C. minutes of evidence give the opportunity to examine the rationale behind anti-evasion policy from the perspective of those members of the Board of Inland Revenue charged with implementing that policy (Control of Investigation Work : Board of Inland Revenue H.C. Paper 123, 1984/5).

General information on tax rates, thresholds and the (historical) shifts in the burden of taxation are available not only in The Board of Inland Revenue's Annual Report, but in other annual H.M.S.O. publications such as the Inland Revenue statistics and Social Trends. Nonetheless, detailed and specific information on estimates of the scale of tax evasion, the Revenue's counter-evasion efforts and measurements of the effectiveness of investigation work is more difficult to unearth. In addition to Hansard (where specifically relevant parliamentary questions and Ministerial statements may be examined), the P.A.C., Keith Committee and Board's Annual Reports provide the most in-depth information officially available on tax evasion and Revenue investigations.



**(b) Supplementary Benefits**

A major disadvantage in obtaining comprehensive official information on supplementary benefits in general (and fraud policy in particular), is the lack of an annual report. The Supplementary Benefits Commission did publish annual reports but since its dissolution in 1980, no comparable document has been available. The responsibility for social security now rests with the Secretary of State, who is directly accountable to parliament and not to an independent body, as was the case prior to 1980 (N.A.C.R.O, 1986). Ministers are thus responsible for providing information on social security matters and their statements are available through official press releases or Hansard. Details of anti-fraud efforts, prosecution policy and departmental manpower are usually made available in this way. For example, Hugh Rossi's statement to the House on 7th February 1983 in the aftermath of the Oxford benefit fraud swoop (Operation Major) outlines the rationales behind departmental prosecution and non-prosecution policy.

As in the case of the Inland Revenue, Public Accounts Committee reports provide a useful source of official data and comment on fraud policy. In addition they may indicate important shifts in perceptions of the seriousness of benefit fraud: for instance, the tone of questions addressed to D.H.S.S. witnesses in 1983 indicated at worst a measure of 'scroungerphobia', at best a serious over-estimation of the likely extent and costs of benefit fraud:

'What view do you take of the estimates that working whilst claiming benefit costs the Exchequer about £500 million?' (Cmnd 102,1983/4)

The senior D.H.S.S. official replied that this figure was not an estimate but, rather

'just a statement that if 10% of those receiving benefit were not entitled to it, that would cost about £500 million....these are all hypotheses and assumptions.' (ibid:1780)

The report criticised the D.H.S.S. for having 'no enthusiasm for attempting to guess how much they were allowing to get away' in undetected fraud (ibid:24). The vocabulary in use here is significant: it derived from the image of a department that was 'allowing' fraud and not attempting to 'guess' at unquantifiable losses to the Exchequer, and it was from this perspective that the report justified the suggestion of random checks on benefit claimants (ibid). Despite the reservations expressed by senior D.H.S.S. officials, subsequent media coverage of the P.A.C. proceedings centred on the £500 million estimate and the possibility of making random checks on claimants: in this way official discourse was constructed politically rather than emanating from the department itself. The absence of any independent body responsible for social security increasingly leads to direct political control of the D.H.S.S. and what is regarded as its 'official' discourse. Changes in the form and content of such discourses can be traced through an analysis of 'official' publications and Ministerial statements.

Alternative estimates of the scale of benefit fraud and alternative discourses on the rationales behind anti-fraud policy are evident in comments from representatives of D.H.S.S. employees (C.P.S.A, 1984; C.P.S.A., 1986; S.C.P.S., 1984) . Publications from 'officials' such as these need to be analysed alongside the official ministerial and departmental pronouncements described above.

Official H.M.S.O. statistics provide information on numbers of persons claiming social security benefits according to type of benefit, regions of

Britain, average amounts paid and estimates of unclaimed benefits (Social Security Statistics, 1986; Social Trends No 16, 1986). But data relating specifically to fraud and its investigation is not so freely available : numbers of D.H.S.S. prosecutions, percentage of those prosecuted found guilty, figures showing numbers and designation of staff involved in investigation work and similar in-depth information is not regularly and comprehensively published by the D.H.S.S.. However, as indicated above, all this information is available in respect of the Inland Revenue in the form of the Board's Annual Report.

For the purposes of this thesis much official information had to be sought directly from D.H.S.S. Headquarters and, despite early problems of access (discussed in the Introduction above), most information requested was made available. Nonetheless, the absence of an annual report and consequent lack of comprehensive, regular, official information on the enforcement of social security regulations enables an increasingly unitary political dominance over official discourse. This marks an important shift both in terms of the accountability and the political autonomy of the D.H.S.S..

Alternative sources of semi-official information are available which may be used to challenge current social security policy in key areas. For instance, the National Audit Office (1987) provides information on incorrect benefit payments and official errors, the Chief Adjudication Officer (C.A.O.) publishes an annual report which gives details of the standards of adjudication on benefit claims in local offices (C.A.O., 1987). In 1985/6 the C.A.O. concluded that 40% of supplementary benefit claims had been adjudicated either wrongly or on the basis of insufficient evidence (ibid). The Social Security Advisory Committee Report (1986) was

critical of many aspects of the governments social security reforms. But alternative sources such as these fail to challenge the dominance of official discourse on issues concerning the welfare state in general, and supplementary benefit fraud in particular. This thesis will examine the social, economic and ideological preconditions which enable the triumph of these official discourses and the parallel failure of alternative perspectives to influence public perceptions of tax and welfare benefit fraud.



## (2) ECONOMICS LITERATURE.

The interest of the economist in both tax and benefit fraud is related to a number of discrete concerns which can be summarised as follows:

(a) A concern to measure the magnitude of tax evasion and, to a lesser extent, benefit fraud, in order to estimate the size of the black economy.

(b) A concern to establish the disincentive to increased effort caused by high taxation and the parallel incentive to idleness of welfare benefits payments which allegedly contributes towards tax evasion and to social security 'scrounging' respectively.

(c) A concern to assess what redistribution, in terms of income in particular, has taken place over the last 40 years.

(d) A concern to establish the circumstances under which economic growth does or does not take place, and economists' perceptions of the role of welfare benefits and personal taxation in this regard.

Although some of these issues are inter-related and many share the same ideological premises, the economists' literature will be reviewed in relation to these concerns, so as to render a broad ranging and complex body of literature more manageable.

### (a) Measuring the black economy

In essence 'the black economy' is a blanket term incorporating frauds by both taxpayers and benefit claimants. Definitions of the term vary: according to the Keith Committee Report the black economy is seen as comprising 'the sum total of all the various methods of tax evasion' (Cmd. 8822, 1983: Note 41). In addition to tax evasion in the formal economy, it may be seen to include other areas of activity including 'household, social, informal, communal, grey, black, hidden, subterranean

and underground' areas of the economy (Gershunny and Pahl, 1980). Clearly the distinctions in tone between the 'black' and the 'white' economy reflect the degrees of legitimacy accorded to such activities. None the less, it is generally accepted that all involve tax evasion, defined in 1955 by the Royal Commission on Taxation as 'all those activities which are responsible for a person not paying the tax that the existing law charges on his income' (O'Higgins, 1981). But by its very nature tax evasion is a covert activity and, as O'Higgins argues, this leads to problems in assessing its true extent:

'[it] is essentially a hidden activity and even trying to locate its accidental footsteps, or the finger prints it leaves, is still more a matter of art than science.' (O'Higgins, 1981:378)

However, the 'science' of both macro and micro measurement has been attempted by a number of economists (Feige, 1979; McAfee, 1980; O'Higgins, 1981; Smith, 1986). The principles underlying such literature are that the black economy may be measured in two ways: first, by macro-measurement which uses aggregate data in economic activity, in which case the discrepancy between known economic activity and Gross Domestic Product (G.D.P.) forms the black economy, and so is often expressed as a percentage of G.D.P. Secondly, by micro analyses of specific areas of the economy in detail, attempting either to measure the 'gap' between the income and expenditure levels of certain groups, particularly the self-employed (O'Higgins, 1981), or by surveys of target groups such as this. But surveys pose the problem of reliability: because tax evasion is usually a continuing crime, it is an issue unlikely to illicit a truthful response from offenders (Lewis, 1982).

Although criticisms of a methodological nature could be raised in economists' attempts to measure the extent of the black economy, this would only be a digression. The principal point initially arising from this literature is that attempts to quantify the precise size of the black economy cannot give definitive answers, but may give broad indications of the scale of the problem. It may be useful, for the purpose of this thesis, to consider the estimate given by Sir William Pile (the then Chairman of the Board of Inland Revenue), to the House of Commons Public Accounts Committee in 1980. He suggested a figure of 7½% of GDP was a plausible estimate of the scale of the black economy. Currently this would mean a loss of Income Tax revenue of approximately £4 billion p.a. Indeed as Michael O'Higgins argues,

'all the data taken together makes it difficult to believe in a figure of less than 5%, so that Sir William Pile's 7½% is indeed "not implausible".' (O'Higgins, 1981:378)

Not only does relevant data provide a problem for economists interested in the black economy, but disagreements between differing schools of thought mean that some economists fail to agree that it constitutes a 'problem' at all. For example some economists from the Institute of Economic Affairs (I.E.A.) have argued that it represents a dynamic and innovatory sector of the economy which can only be assessed in terms of its contributions to national wealth. Conversely The Inland Revenue Staff Federation (I.R.S.F.) argues, that

'On the contrary, the black economy is actually an obstacle to the creation of wealth through individual enterprise. The honest trader who pays his fair share of tax finds himself undercut by unfair competition - forced to join the dishonest sector or go



under.' (I.R.S.F. Taxes April 1981).

But, the view expressed by economist Bracewell-Milnes (1979) is that the problem of the moral and legal distinctions surrounding tax avoidance and evasion can be removed by 'Positive (value free) economics'. This 'value-free economics' is, however, based upon the simple calculation of when tax avoidance and evasion 'benefits the fisc' and when the fisc loses. Far from being value free, an analysis of this kind assumes that the black economy is acceptable so long as the economy benefits financially. In assuming that profit is an ideologically neutral motivation and failing to recognise issues of social justice, such arguments merely support the logic and ideology of capitalism. But, they nonetheless form an important source from which tax fraudsters draw on to justify their actions (see Chapter 4 (1b)).

Such arguments are defeated, even in their own terms, according to the I.R.S.F. who argue that 'the black economy may be growing - but it is only at the expense of the rest of us' (Taxes, April 1981).

In addition to damaging legitimate businesses, the unfair competition of the black economy also hits the consumer who has no safeguards or guarantees from a 'cowboy' contractor. Paradoxically, this argument is also important because it is used by bona-fide contractors who do 'jobs on the side'. They may justify their fiddles in terms of giving a better service than the cowboys and at competitive prices, which are only possible through fiddling tax and V.A.T.!

The debates briefly illustrated here highlight many of the problems raised by the economists' literature: estimates of the scale of the black economy vary a great deal and none are empirically verifiable. But equally important is the contradictory nature of much debate on the nature



of the black economy, whether it represents a drain of up to £4 billion p.a. on the nations' resources, or a dynamic sector of the economy as a whole. These ideologies will be discussed further in sections (d) and (e) below (see also Chapters 3 and 6).

Another problem surrounding this concern within the economists' literature is that it fails to distinguish between tax evasion and other activities comprising the 'black economy', which includes the evasion of National Insurance contributions and Value Added Tax. It is equally impossible to distinguish what proportion of black earnings are earned by those who operate in the 'white' economy too, (Gershunny and Pahl, 1980) and what proportion of the black economy is attributable to persons falsely claiming state benefits. Although many commentators indicate a likelihood that those already in work have greater access to channels of additional 'black' earnings (Trades Union Congress, 1983; Supplementary Benefits Commission, 1981; Inland Revenue Staff Federation, 1981), popular belief still upholds and reinforces the 'scrounger' mythology (Golding and Middleton, 1982). The problems involved in separating tax and benefit fraud as distinct activities within the black economy are not, and probably could never be, resolved by economic analysis. Suffice it to say that both forms of fraud are incorporated within it and, (as Chapter 3 will argue), tax fraud forms the greater proportion in terms of its costs, scale and frequency.

## (b) The Incentives Argument

The debate over 'incentives' relates to this thesis in two important respects: first, the belief that high rates of taxation prove a disincentive to work in the 'white' economy and at the same time an incentive to work in the 'black' area is a crucial factor in explaining justifications for tax fraud. Second, the belief that high rates of welfare benefits operate both as a disincentive to take up formal paid work and as an incentive to remain dependant on state benefits, is important in explaining negative social reaction to benefit 'scroungers'.

### (1) Tax.

To deal with the literature regarding tax disincentives first, such arguments are based upon the notion that, 'individuals would react to changes in taxation of their efforts as measured by tax on their final marginal hour, week or month' (Seldon, 1979:8). Some economists (and many journalists and politicians), therefore assume that 'high' taxation dissuades individuals from legally working longer hours, and from working harder. Such ideas, often put forward by the Institute for Economic Affairs, are reminiscent of the response of early nineteenth century industrialists to pressure from the 'Ten Hours' movement to reduce the length of the working day. They rest upon similar ideological rather than empirical foundations concerning the source of business profits and the economic rationality of men. But it was never the case that a firm's profits were made in the final hour of the working day, (Hobsbawm, 1968) and the assumed marginal effect of taxation upon effort remains similarly unsubstantiated. Research in the U.S.A. indicated that, contrary to this popular assumption,

'higher income taxes may virtually force the income earner to work harder in order to make ends meet. On theoretical grounds alone, therefore, it can no more be proven that taxation necessarily has a disincentive effect than it has an incentive one.' (Break 1957:529)

Break's study found that disincentives were certainly absent in respondents with high fixed commitments in relation to their incomes. High taxation may actually spur these individuals to work harder in order to maintain their living standards. But it is important to note that the rhetoric of the incentives debate may be more important than its logic or substance:

'The chorus of complaints, vehement and eloquent, against "penal" taxation, echoed by the great majority of respondents interviewed was surprisingly infrequently translated into action.' (ibid)

And so the disincentive theory remained powerful in people's minds despite its shaky empirical foundations.

As will be discussed in forthcoming chapters, the two sides of the incentives argument when applied to tax fraud and supplementary benefit fraud may well help to explain their differential treatment. The former may be seen as a response to 'penal' taxation the latter to the disincentives to effort of a 'cossetting' welfare state (see Chapters 4 and 5). Furthermore, the I.E.A. argument articulated by Myddleton (1979) that 'raising the tax rates on honest earnings automatically increases the relative benefits of untaxed crime' remains simplistic and unconvincing. It ignores the complexity of motivations of human action, the variety of individuals' personal (financial) circumstances and the evidence of Break's study. The incentives argument reduces the actions of men and women to those of rational economic man, and does not fit a complex social reality.



Former Chairman of the Board of Inland Revenue, Sir Norman Price rejects the simple link which incentives theorists pose between high rates of taxation and the avoidance and evasion of tax:

'I think avoidance is growing and in my view has become a national habit. Even if rates of tax were reduced quite considerably, it would still go on.' (Seldon, 1979:6)

This would seem to be confirmed by recent reductions in personal tax under the Thatcher government which have not been accompanied by reductions in evasion: 1979/1980 was the last tax year for which the highest rate of 83% was chargeable. In 1987/8 the highest rate of income tax is 60%, and this only on chargeable income in excess of £41,200 per annum. But there is no evidence that such reductions in the highest rates of tax, nor the recent reduction in the basic rate of tax from 30% to 27%, have led to a parallel reduction in the black economy! (see Chapter 3).

A final criticism of the incentives argument relating to taxation was made by the Low Pay Unit who argued that the degree of disincentive (even if it should exist), is much exaggerated. Chris Pond (1980) argues that the top 1% of income recipients in 1978/9 were effectively taxed at a rate of less than 50% overall, despite marginal rates of 83% at that time. As mentioned above, such rates were cut to 60% in 1979 therefore the number of taxpayers affected and the alleged extent of tax disincentives is much overrated (ibid). Nonetheless, the incentives argument, as Break indicated, is still a persuasive one in the public mind. As such it may provide a commonsense rationale for tax evasion. (This, together with other possible justifications for evasion, will be further discussed in Chapter 4).



(ii) Supplementary benefit.

The incentives debate (in a different form) lies at the heart of the economics of social security provision. Supplementary benefit levels in particular are directly related to the standard of living of those in work. Berthoud (1976) notes that one of the historical criteria for setting supplementary benefit at such a low level was the need to maintain work incentives. The legacy of the principles underlying the 1834 Poor Law are evident here: the principle of 'less eligibility' involved rendering the lot of the pauper less beneficial than that of the lowest-paid worker. This, coupled with the deterrent of the workhouse, sought to act as a disincentive to idleness and incentive to productive labour, however low the wages for that labour might be (Fraser, 1984; Rusche and Kirchheimer, 1939). But even in the 1980's there are those whose views on taxation and welfare are still underpinned by these principles, despite the material reality of mass unemployment:

'There can be no doubt whatever that at the margin there are people, even in present circumstances, who take the rational decision that it is not worth their while taking a job at the sort of pay at which jobs may be on offer.' (Nigel Lawson, The Times 4.7.83)

The present Chancellor of the Exchequer therefore invokes arguments of the 'incentive' variety to justify further reductions in welfare benefits whilst encouraging the problem of low pay, and, moreover, not setting low pay as a problem at all on the political agenda.

Economics literature which supports and legitimises such propositions derives mainly from the neo-classical school of economics, the most popular form of which is currently Monetarism (see also section 3 - Social Policy Issues). An extreme exponent, Professor Patrick Minford, claims that

13-15% of the workforce are better off unemployed because of what he sees as the problems of high benefit levels and disincentives to effort (Minford, 1983), but the weight of statistical evidence suggests this assertion is grossly misleading (see Roll, 1983). Hermione Parker in effect abandons statistical evidence in favour of a 'snapshot' estimate of those who are (in her view), being discouraged from 'helping themselves' (Parker, 1982). But her figure of 5½ million people without the incentive to help themselves is, argues Roll, simply the number of adults living below 140% of supplementary benefit level, this being an often used measurement of the poverty line (Townsend, 1979). Economists working within the political economy of the New Right therefore consider that any individual who is poor is at risk of being discouraged from working, (or from working harder), as a result of the disincentives that allegedly 'high' benefit levels provide. They rarely indicate the other side of the argument, namely the problem of low pay which is the largest single cause of poverty in Britain in the 1980's (C.P.A.G., 1987).

It is also significant that the trap in which the low-paid are caught-up has now been redefined: what was known in the 1970's as the 'poverty trap' has more recently been termed 'the anti-effort trap' (as, for instance, in a 1984 B.B.C. Panorama programme 'The Welfare State'). This marks an important shift in the boundaries of popular discourse relating to welfare: vocabularies stressing the themes of effort and incentive are evidence of (and serve to justify) the New Right ideologies which invoke them. This is of crucial importance to the mode of analysis of this thesis as it is from the differential attribution of such vocabularies that the contradictions enabling differential treatment of tax and benefit fraudster emerge. As will be argued in this thesis (Chapters 4 and 6), when tax



fraudsters defraud the state they may successfully invoke vocabularies of effort and incentive which often imply that the regulation of their financial activities by the state (through the Inland Revenue) is a greater evil than the illegal act of evasion which they have committed. Put the other side of this argument is the failure of other groups (namely supplementary benefit fraudsters) to invoke similar vocabularies to justify their actions. For instance, claimants who clean windows or do household repairs 'on the side' cannot successfully invoke the rhetoric of incentives and effort as the tax fraudster can: they are constrained by their very relationship to the state (claiming from it) and cannot represent their fiddles as entrepreneurial and innovative. It is from their different connection to the state, through which the taxpayer is seen as a giver and benefit claimant as a taker, that differential response to their frauds derives.

To return to the incentives issue, it is worth emphasising that the association between the payment of 'high' welfare benefits and the persistence of unemployment is the subject of controversy amongst economists. For instance, Minford maintains that there is a positive correlation and argues that a 10% cut in benefit levels would therefore reduce unemployment by 25 - 40% (Minford, 1983). However Atkinson (1981) insists that no such link is proven or measurable. Nonetheless, the incentives debate has in recent years entered a new phase (see analysis of the Ideology of the New Right in (3) below). It is now popularly argued that unemployment is a result of excessive wage levels (and consequent uncompetitiveness) and therefore workers must 'price themselves into jobs'. Sir Alfred Sherman (Director of the Centre for Policy Studies) was therefore able to assert that 'There is a level of wages at which there

would be no labour shortages and no unemployment' (Sunday Times 10.7.83). The practical implications of this view when applied in policy terms to the unemployed, (and to supplementary benefit claimants generally), are clear: wages levels must come down so that workers can price themselves into jobs, therefore welfare benefits must be reduced to encourage the unemployed to accept these lower wages. Literature from the Institute of Economic Affairs and Institute of Directors demonstrates further implications of such assumptions. For instance, a spokesman for the latter argued in 1984 that benefits for young people should be reduced because such payments were a 'disincentive to further education and training' and to their seeking 'a low paid job, but one with prospects' (Graham Mather, B.B.C. Panorama: 'The Welfare State'). Despite serious flaws in Mather's argument, policy changes relating to benefit payments for young people reflect the same assumptions (Social Security Consortium, 1986).

These incentives arguments are neither theoretically nor empirically sound. For instance, Roll (1983) demonstrates the less than perfect relationship between the individual worker, his/her wage levels and levels of welfare benefits. Moreover, being based upon neo-classical economics, arguments which emphasise workers 'pricing themselves into jobs... confuse what happens at the level of the individual firm with the economy as a whole' (Roll, 1983:12). But, as will be seen from an analysis of New Right literature (see (3) below), the economics of the shopping basket and the good housekeeper is persuasive in its very simplicity. Although firms, government departments and nation states do not behave in the same way as individual household units, this analogy (implicit in Monetarism in particular), serves to reinforce the ideology of individualism and focuses responsibility on the individual not the state (see Chapter 3). Thus



incentives arguments reflected in the vocabularies of 'pricing into of jobs' and 'better off on the dole' gain an immediacy and power. They form easily understandable, shorthand explanations for complex phenomena such as mass unemployment and the role and effects of the welfare state. Although the kernel of the incentives argument, that voluntary unemployment exists as a result of the relatively high level of state benefits, seems absurd in the context both of effective reductions in benefit levels (CPAG, 1984) and mass unemployment at unprecedented levels, it cannot be easily dismissed.

One example of the implementation of the incentives view in practice was the abolition of earnings related supplements (E.R.S.) in 1982. This supplement had been payable on top of basic levels of contributory benefits (such as sickness and unemployment benefit), for a period of up to thirteen weeks. The level of supplement was determined by the level of the claimant's previous earnings and was designed to act as a cushion against the hardship which could result from a wage-earner's sickness or unemployment. According to the incentives argument, the abolition of E.R.S. reduced incentives to remain sick or unemployed. But even before its abolition, several studies refuted the idea that benefit payments acted as an incentive to idleness and dependancy (see Roll, 1983).

Nevertheless, some economists have not only assumed, but have attempted to measure, the extent of the disincentive effect. One way of arriving at such a measurement is by calculating 'replacement ratios'. People whose incomes when out of work are adjudged 'high' in relation to their incomes when working are said to have high replacement ratios. These are the individuals who allegedly have the least incentive to work. But as Roll (1983) and Shawler and Sinfield (1981) indicate, economists'

definitions of what constitutes a 'high' ratio vary from 70-90% depending on their attitudes towards work and welfare. A mass of evidence from relevant surveys, (DHSS Cohort Study of Unemployed Men, 1982; House of Commons Treasury and Civil Service Committee, Third Report, 1983) indicates that the minority of men who have high replacement ratios are most likely to be family men whose needs when means-tested are high, but whose wages may be very low. This appears to falsify the view of economists who argue that the young suffer most from the disincentive of receiving benefits. Equally, these studies do not support the mythology of large families procreating in order to maximise benefits. Rather, they demonstrate that when a 'family man' has a low earning capability, then the replacement ratio will appear high, but, according to Roll, this may be as a result of (a) low pay and (b) underclaiming additional means-tested benefits such as F.I.S and free school meals etc. to which the family may be entitled (Roll, 1983). It is important to note that what the individualist school of thought considers as a problem of incentives, the social justice school of thought considers a problem of low-pay and poverty.

Minford (1983) and other economists adhering to the politics of the New Right may argue that benefit levels are too high and therefore that claimants' will to work, and to work harder, is diminished. But a survey of the long term unemployed by the Manpower Services Commission seems to refute this argument:

'Most people questioned wanted work ... In real terms few of the unemployed expected an increase in their net pay .... By contrast probably at least one half were willing to accept a drop in their real pay.' (M.S.C., 1980)



Similarly, data from the Family Expenditure Survey casts doubt on the association between the payment of benefits and a disincentive to gain work which would result in voluntary unemployment:

'The average weekly income of an employee out of a job in 1983 was only 59% of employees' incomes. The ratio between income in and out of work for the long-term unemployed over one year is even less favourable since they can on average expect only 39% of the income they would have if they worked.' (The Guardian 3.1.85).

For the purposes of this thesis the incentives debate is a vital one not because of the merits of the economic analyses in themselves, but because of the importance of such arguments in producing and reproducing certain vocabularies which are differentially invoked in the cases of tax and supplementary benefit fraud. In particular the ideology of economic individualism supports the entrepreneurial drive of the shrewd individuals who accumulate wealth, (even if they do fiddle their taxes ), yet castigates benefit claimants who fiddle, no matter how ingenious and entrepreneurial they may be. Benefit fraudsters are perceived as doubly reprehensible because they are seen as takers ~~from~~ the state who also cheat! The 'scrounger' mythology, so evident in the 1970's (Golding and Middleton, 1982), coupled with the resurgence of economic individualism may also effectively contribute towards the dismantling of what has been termed the welfare state consensus (Loney et.al, eds, 1983; Golding and Middleton, 1982; Hall et.al, 1978). The social and political consequences of this ideological shift will be explored below (see Chapter 1 (3) and Chapter 6).

Finally, an alternative version of the incentive argument must be mentioned: many critics of the economic analyses discussed so far would

deny that the welfare state is cossetting and provides a disincentive to work. Rather, they argue, benefit levels are set too low to enable civilized social life, and as such may even encourage fraud as the only available means of financial survival (Field, 1979; Harrison, 1983). A former high-ranking Civil Servant Geoffrey Beltram notes that 'mitigating circumstances - poverty and sometimes desperation' exist in many supplementary benefit fraud cases (Beltram, 1985). The link between low levels of benefit paid and incentive to defraud was explored in evidence to the Public Accounts Committee investigating Social Security fraud and abuse (Cmnd 102, 1983/84). An important point was raised in relation to claimants' permissible earnings: currently (in 1987) unemployed supplementary benefit claimants may only have £4 per week of their (or their spouses') earnings disregarded, thereafter effectively suffering 100% 'tax' on earnings. It was suggested that a more realistic disregard of £10 or £12 would effectively reduce fraud (ibid). This formal suggestion demonstrates that the greatest financial disincentives are suffered by the poor not the rich (see Chapter 6). It also involves a tacit admission that there is a link between the inadequacy of benefit levels and instances of fraud. Paradoxically the D.H.S.S. themselves acknowledge this in that their prosecution policy involves taking account of 'mitigating circumstances' such as 'severe financial difficulties' (Stockwell and Clapham Law Centre, 1983). But, if as advocates of greater social justice argue, supplementary benefit levels are wholly inadequate (Deacon and Bradshaw, 1983; Piachaud, 1987), then being a claimant in itself constitutes mitigation, and even a justification for fraud. As will be argued below, the principle justification which benefit fraudsters offer is poverty - they need to 'fiddle for necessities' (Chapter 4 (2b)).



(c) The Redistribution of Income : Tax and Benefits.

Economists have also been concerned to examine the effects of using taxation and the payment of welfare benefits as twin agents of social and economic policy. It is often asserted that in the twentieth century the tax and welfare systems have brought about a redistribution in the income of Britons, evident for instance in the introduction of graduated taxes in 1911 and the implementation of the Beveridge Report in 1948. The principles of equity and efficiency preoccupied legislators although neither has been achieved through their efforts: Sabine (1966) argues that apparent egalitarianism is a facade behind which inequalities of condition blatantly remain. Kincaid (1975) goes further and claims that social justice has always been subordinated to the goals of economic growth in modern British politics (whether Labour or Conservative). He argues that redistribution is a myth and that the issues of poverty and social justice are inseparable (ibid). His evidence, coupled with more recent statistics (Social Trends No 16, 1986; Byrne, 1987) indicate a slow fall in the incomes of the lowest half of income earners since 1949, a trend which is now accelerating. For example, the share of household income of the lowest fifth of income-earners dropped by 9% between 1976 and 1985. Over the same period the share of the top fifth of income-earners rose by 6% (Byrne, 1987).

Evidence to support the notion of redistribution of wealth is equally illusory. The Royal Commission on the Distribution of Income and Wealth (1979) found that personal wealth (physical and financial assets as opposed to 'fluid' incomes), has very limited distribution amongst the population of Britain: over 40% of marketable wealth is owned by the richest 5% of adults (Reid, 1981; Social Trends No. 16, 1986). Atkinson

(1978) and Kincaid (1975) therefore see little evidence to support the notion of a redistributive society or any process of equalization in incomes (or wealth!) in recent decades. Moreover, recent privatisation share sell-offs in the mid 1980's have done nothing to alter gross material inequalities between rich and poor which, despite the rhetoric of 'popular capitalism', are increasing (Piachaud, 1987; Walker, 1987).

Nonetheless, the myth of redistribution dies hard, and some economists fail to recognise the existence of poverty :

'I have always felt that far too much fuss is made of the poverty trap.' (Nigel Lawson, 1977:29)

'Successive governments, obsessed with naive notions of social justice, have taxed to the point where the relation between effort and income has all but disappeared.' (Ivor Pearce, 1977:105)

Greater social justice through redistribution is not an ideal shared by all:

'It is as well if the Conservatives realise the limitations of social policies - good housing and food may make people happier, they won't make them more equal'

(Rhodes Boyson, The Spectator 15.12.73)

'Government spending is too high and the progression of direct taxation is too steep - and the combined result is that we have in Britain long passed the point where redistribution helps the poor - or anyone else except the increasing number of officials employed in increasingly complex tax and benefit systems.....

And yet the talk is still of still more redistribution. There is scarcely anything left to redistribute.'

(Sir Keith Joseph, Observer 22.8.75)

But empirical evidence offered by the Low Pay Unit and from Inland Revenue statistics suggests that there is a great deal of wealth left to redistribute. For example, Chris Pond argued in 1982 that if total marketable wealth recorded by the Revenue was equally shared amongst the adult population, every member would have owned £13,000 in 1980 after paying all debts including mortgages (New Society 9.9.82).

Economists' estimates of the extent of redistribution of both income and wealth therefore vary enormously. The Institute of Economic Affairs is the source of much negative comment on the redistribution of income through what they see as excessively high marginal rates of taxation (I.E.A., 1979). However, the alternative commentators discussed here (Kincaid, Atkinson, Pond, Piachaud, Byrne), cast serious doubts upon the claims that substantial redistribution has taken place. They further argue that the concept of the redistributive state is more important at the level of popular mythology rather than at the level of empirical economic analysis.

This debate provides a crucial foundation for any analysis of differential response to tax and benefit fraud: if as Mrs Thatcher has suggested 'the rich are getting poorer and the poor are getting richer' (Thatcher, 1975), then tax fraud may be perceived as more justifiable than benefit fraud, and the latter seen as evidence of greed and 'scrounging'. Alternatively, if (as the C.P.A.G., Low Pay Unit and other critics argue), the poor are becoming poorer, then differential response to tax and benefit fraud represents a negation of the ideal of social justice and a means by which the 'rich' who fiddle may become richer still.



(d) Economic arguments on Growth and Social Justice.

Many of the justifications which are offered for the unequal response to tax and benefit fraud have their origin in crude economic analyses. These analyses can be broadly summarised as emanating from two schools of thought which will be referred to here as (1) Advocates of Economic Growth and (2) Advocates of Social Justice. Those economists who argue that economic growth should have priority over social justice believe that growth offers 'greater absolute benefits for all' (Seldon, 1979). They argue that a society based upon egalitarian principles would hamper the creation of wealth and so reduce economic benefits for all (Myddleton, 1979). Such a view may lead to tax evasion and avoidance (conflated in the term 'avoision'), being represented as not only justifiable but positively creative:

'Tax avoision may represent the power to preserve or create'

(Myddleton, 1979:57)

'avoidance inspired by the motive of self-enrichment may yield gains, not losses, to the fisc and to the taxpayers fellows.....

..tax avoidance may serve the public weal by reducing public expenditure or increasing the yeild of tax. Tax avoidance and even evasion may be a form of public, service in consequence if not in motive.' (Bracewell-Milnes, 1977:82-3)

No evidence is provided for such assertions, which are refuted by the Inland Revenue Staff Federation (I.R.S.F., 1981) and Sandford, Pond and Walker who argue that avoidance and evasion bring about

'a redistribution of income in a way never intended by government:

evasion is likely to mean a transfer from the unsophisticated to the sophisticated'

(Sandford, 1980:6).



This would indicate that even if economic growth were to be accepted as the guiding principle of taxation policy (economic growth which may even be predicated on the evasion and avoidance of taxes), 'benefits for all' would not automatically result. Financial gain would clearly be limited to the (already richer) few (ibid).

To use Myddleton's analogy (1979), the debate may be summarised as one between proponents of 'Growthland' and proponents of 'Egalitaria'. Both views are seen as mutually exclusive, although in the era of Butskellite consensus it seemed that economic growth could be coupled with the development of welfare Capitalism and the achievement of greater social equality :

'Overall, the blend of affluence and welfare appeared as a triumphant vindication of the western social system. And social welfare looked like an eminently successful way of tempering freedom with security, enterprise with stability, economic growth with a measure of social concern.' (Mishra, 1984:6)

The welfare state had therefore appeared to provide the primary vehicle for the creation of a social consensus and for uniting economists' concerns for both growth and social justice. However, the challenge posed from the reassertion of the ideology of individualism, neo-classical economics and (most recently) the political 'New Right' have all but destroyed the welfare consensus (Mishra, 1984; Loney et. al, eds, 1983; Golding and Middleton, 1982). The issue of 'social justice' becomes redundant if the 'social' is replaced by atomistic individualism. Mishra argues that in rhetoric dominated by the latter, society consists merely of individuals 'playing the game' of the market according to the current rules and taking their chances in the market place, 'for better or worse',

and as a result social justice simply 'disappears' (Mishra, 1984:62). Not suprisingly, countries which symbolized the aspirations and achievements of the post-war welfare state are most open to criticism from economics literature in the neo-classical vein: according to Mishra, Friedman therefore

'blames the Welfare State, by implication, for Britain's economic ills - poor growth, inflation, unemployment and the like.'

(Mishra, 1984:56).

As a result the polarization of the economic schools (and ideologies) of growth and social justice seems complete. But this polarization has itself been constructed and is in no way 'natural' or self-evident. The development of political ideologies which enables the goals of 'Growth' and 'Welfare' to be constructed as opposing ideals will be discussed below (section (3) and Chapter 3), as will the circumstances under which one triumphs and the other fails in the public rhetoric (Chapter 6). This thesis will argue that the contradictions between the politics and ideologies of individualism and social justice have generated contradictions in social policies relating to tax and welfare. Failure to resolve these contradictions has led to inconsistency in the responses to those who are, in economic terms, seen as successful and those who are regarded as failures.

Tax evaders and supplementary benefit fraudsters may be located at either end of the polarization between the ideologies of 'Growth' and 'Social Justice'. As indicated above, many economists see taxpayers as those who generate wealth and benefit claimants as a financial burden upon those wealth creators. The paradox lies in the fact that moonlighters and 'ghosts' and others generating 'wealth' by avoiding and evading tax may in

essence perform the same illegal acts as the majority of supplementary benefit fraudsters (as most who fiddle do so by working 'on the side'). But the latter are not regarded as entrepreneurial or wealth creating by economists operating neo-classical principles. The problem of selective application of their own economic principles is not an uncommon one within this school of thought: Mishra cites several examples of the highly selective nature of what he terms 'neo-conservative' literature (Mishra, 1984:56-61).

This thesis aims to illuminate and explain the differences in vocabularies available to justify tax and benefit fraud. Many of these vocabularies invoke economic explanations for differential responses to tax and supplementary benefit fraud. Whatever the empirical validity of these explanations, they do inform official and popular discourse and so form an important source of both 'knowledge' and rhetoric on the topic. The concerns of economists summarised here therefore have a direct bearing on the aim of the thesis - to analyse the conditions (political, social and economic) under which the ideological discrepancies which give rise to differential response can arise.



### (3) SOCIAL POLICY ISSUES.

Personal taxation and the payment of social security benefits may be regarded as twin tools of social policy in modern Britain. Taxation finances the activities of the modern state, and the welfare state provides a channel through which much state revenue is directed towards individuals who demonstrate entitlement or need. The degree to which either (or both) are emphasized in political discourse can indicate the social policy goals of a particular government or political pressure group. For example, the payment of welfare benefits to the elderly, sick, unemployed and single parent families may, on one hand, be seen as a means of enabling these groups to 'participate in the life of the Community' (Donnison, 1982). On the other hand, welfare benefit payments may be perceived as weakening the 'moral fibre of our people' making them like 'broiler hens' (Boyson, 1971).

In the eyes of the British public taxation is indeed seen as the principal means of financing government expenditure, including the activities of the Social Services and the Welfare State (Furnham, 1985). Whether attitudes towards taxation and, towards welfare are positive or negative, in public imagery they are perceived as evidence of the 'Robin Hood' activities of the state: taking from the rich and giving to the poor. But there is much evidence that this simplistic view is misleading: personal taxation has not only been imposed on the rich:

'the contributory principles plus very heavy indirect taxation have together meant that much of the expenditure upon the social services has become a transfer by taxation within the working class itself.'

(Saville, 1983:17)

Furthermore, recent evidence suggests that the burden of personal taxation is falling increasingly on those with incomes below average male earnings



(Byrne, 1987). The extent to which the rich subsidise the poor is therefore in serious doubt, yet the Robin Hood type of mythology is still influential amongst political and economic commentators (see discussion of the redistributive myth in (2) above), and in the public rhetoric (Furnham, 1985).

Regardless of the political perspective adopted, the perceived relationship between taxation and welfare benefits constitutes an important focus of social policy making. For this reason, a review of all relevant literature would be virtually endless. It is therefore necessary to limit the scope of such a review to the elucidation of three themes which are particularly useful in explaining differential responses to those who fiddle the state through evasion of taxes and those who fiddle through welfare benefit payments:

1) The Historical development of the 'Welfare State': this theme concerns the social, political and economic preconditions enabling the development of what is termed 'the welfare state' up to 1948. It is important here to illuminate the contradictory views about poverty and personal pathology upon which the modern welfare state is based: an appreciation of these contradictions will help to explain (a) how differential responses to welfare benefit fraudsters is made possible and (b) in what terms it may be justified.

2) Theories of Penalty: this theme concerns the inculcation of the work ethic and the social side-effects of this process. For instance, social groups who were either unwilling or unable to adopt the discipline and values of capitalism (for example the 'idle', the sick or elderly) became marginalized. Consequently, when certain marginalised groups engage in rule-breaking, official sanction can more readily be applied to them

because they are already perceived as deviant by virtue of their lack of productive economic status, particularly the unemployed (Garland, 1985).

3) The ideology of the 'New Right': this theme is important in bringing up to date many of the debates emanating from a discussion of themes (1) and (2) which converge on the issues of taxation and welfare. These include:

(a) the role of the state in the provision of welfare benefits and services in a modern society

(b) the ideology behind the New Right articulation of the incentives argument: personal taxation as disincentive to effort and welfare benefit payments as incentive to indleness

(c) the desirability of the 'go-getting society' and the social market.

This review of social policy literature will therefore adopt the following framework:

- 1) The historical development of the 'Welfare State'.
- 2) Theories of Penality
- 3) The ideology of the 'New Right'.

#### 1) The historical development of the Welfare State

Many texts which describe and explain the development of the Welfare State adopt a historical perspective which, as Titmuss notes, assumes a 'broad, ascending road of social betterment provided for the working classes since the nineteenth century and achieving its goal in our time. This interpretation of change as a process of unilinear progression in collective benevolence for these classes led to the belief that in the year 1948 "The Welfare State" was established.'

(Titmuss, 1963:34)

Such an approach may be profoundly misleading, not least because it leads to a re-interpretation of history in terms of contemporary issues of 'poverty', 'welfare' or the role of 'the state'. Karel Williams (1981) argues that historians have therefore attempted to establish causal connections along the road to 'social betterment' and in doing so have produced a historiography which is 'the prisoner of confused and incoherent received ideas' (ibid:2). One difficulty in reviewing literature relating to poverty and its relief during the nineteenth and twentieth centuries is therefore the problem of 'modernity'. An example of this is evident in historians' reappraisal of the pre-1834 Poor Law as a relatively harmless practical response to rural poverty, and their simultaneous condemnation of the 1834 Poor Law Amendment Act because of its emphasis on wilful pauperism. Williams argues that in such instances historians may be evaluating early social investigations and historical resources in accordance with the degree of harmony that they exhibit with contemporary discourses on poverty (Williams, 1981:5).

Nonetheless it is necessary to review orthodox accounts of the development of the Welfare State bearing in mind both the problem of modernity and the weakness of any simplistic historical interpretation which sees The Welfare State as coming into being in 1948, the product of a unilinear social progression (Titmuss, 1963). Many critics of post war British social policy argue that 1948 did not mark a revolution in policy towards the poor so much as a pragmatic response to the need for both post-war social and economic reconstruction and for political compromise (Mishra, 1977; Loney et.al. eds, 1983; Deacon and Bradshaw, 1983).

No attempt will be made here to reconstruct the history of the Poor Laws (see Chapter 2 for an outline of differential histories underlying



taxation and welfare). Instead, certain important shifts in the assumptions underpinning social policy will be noted: for instance changes in definitions of who constitutes 'the poor', or in the ideologies of poverty and individual culpability. Such issues are important because they illuminate attitudes towards those perceived as 'living off the state' (or parish) or as 'workshy' (in former times, idle). Although the words used to denote attitudes to the poor may have changed, the meanings and attributes associated with state/parish, workshy scrounger/idle pauper are essentially the same. Similarly, the literature in this area demonstrates a remarkable consistency in negative attitudes towards the poor, despite the lapse in years, from 1834 through to the 1980's.

At the beginning of the nineteenth century poor relief was 'selective, discontinuous and supplementary' and so offered a very different form of assistance from both later nineteenth century poor relief and late twentieth century social security (Williams, 1981). Payment for relief of poverty was based upon the Elizabethan Poor Law which was modified in order to supplement the incomes of the 'able-bodied', usually unemployed or lowly-paid men with families. This was known as 'outdoor relief' and such payments existed in tandem with indoor relief to the very young, old or sick housed in institutions (Fraser, 1973; Williams, 1981). Payments were financed at Parish level by the poor rates: the increased rates necessitated by increasing expenditure to support the poor is frequently cited as a principle reason for the setting up of the Royal Commission which reported on the poor law in 1834. Commissioners Chadwick and Senior believed the key problem was that granting outdoor relief to the able bodied both interfered with market forces which (they argued)



determined wage levels, and stifled ambition and effort. Such ideas had been pronounced forcibly by Reverend Joseph Townsend in 1786:

'What encouragement have the poor to be industrious and frugal when they know for certain that should they increase their store it will be devoured by the drones, or what cause have they to fear when they are assured, that if their indolence and extravagance, by their drunkenness and vices, they should be reduced to want, they shall be abundantly supplied ?' (Fraser, 1973:35)

The legacy of such ideas is clear in the pronouncements of contemporary politicians who use similar imagery of 'the idle, feckless and failures' in order to mobilize resentment against the poor: 'broiler hens' merely replace 'drones' in this rhetoric which assumes poverty is a problem of culpable, feckless individuals (Boyson, 1971).

The twin pillars of the 'New Poor Law' of 1834 were the principles of less eligibility and the Workhouse Test (see Chapter 2). As Fraser (1973) noted,

'A harsh alternative to self-help and independence was to be offered to the prospective pauper which he would accept only when truly destitute. It was not intended to reduce poverty but to deter pauperism.' (ibid:43).

In this context Fraser uses the term 'poverty' to denote a structural social problem and 'pauperism' to denote individual destitution: the latter term was the one employed in the nineteenth century and in usage implied individual culpability. Therefore the principles of the 1834 Poor Law were aimed at deterring poor individuals from claiming poor relief by making its acceptance conditional upon the workhouse test. A contemporary economist summarised the role of the workhouse in the following terms:

'The able-bodied tenant of a workhouse should be made to feel that his situation is decidedly less comfortable than that of the industrious labourer who supports himself.'

(McCulloch , quoted in Fraser, 1973:43).

Also implicit in such ideas is a version of the incentives argument (outlined above). The assumption that it is the allegedly high levels of poor relief (or benefits) which are responsible for idleness lies at the root of attempts to reduce the attractiveness of the conditions under which such relief is paid, and the amounts paid. In this way it is possible to see parallels between contemporary calls for an end to the 'anti-effort trap' (discussed in section (1) above) and between concerns to deter pauperism and reduce the costs of poor relief in the nineteenth century, and current attempts to reduce expenditure on welfare benefits .

The poor law after 1870, according to Williams, presents a complex picture demonstrating the different strategies being adopted to deal with poverty. The 'crusade against outdoor relief' after 1870 attempted to educate the poor but 'degenerated into more repression of pauperism' (Williams, 1981:92). At the same time indoor relief was subject to new classification and treatment which involved institutions more specialised than the general mixed workhouse: built on the pavillion system, these new institutions operated 'a battery of treatment techniques' (Williams, 1981:144).

The separation of the able-bodied unemployed male from other groups claiming relief is highly significant: 'a line of exclusion was drawn against able-bodied men after 1850' (Williams, 1981:59) which according to Bill Jordan remained an important feature over a century later. Jordan argues that the creation of a pauper class



'appears to be dealing with poverty, but separates those who may demand radical change from workers who may have a stake in higher profits and expanding economy.' (Jordan, 1973:11)

This separation between workers and the unemployed thus created the possibility of antagonism between two clearly defined groups - workers and claimants. Such a division is firmly rooted in the operation of the poor laws and the mechanics of exclusion. As Jordan indicates, the re-establishment centres run by the D.H.S.S. function to control the alleged 'voluntary unemployment' of the long-term unemployed (ibid). These residential centres offer places for 'persons who are in need of re-establishment through lack of regular occupation' - to the long term unemployed males (none are available for females) 'who show no signs of finding work' (Lynes, 1985:231). Despite current levels of unemployment, the able-bodied male may be ordered to attend such a centre under threat of withdrawal of supplementary benefit if he refuses (ibid). This element of compulsion, together with the separation from wife and family, appears firmly rooted in the nineteenth century tradition of dealing with the male able-bodied pauper. The ideology of the workhouse thus remains an important element in the policy and practices of regulating the unemployed.

Significant shifts in policy towards the poor are evident in the liberal reforms of 1909-1914 (following a Royal Commission on the Poor Laws set up by Conservative Prime Minister Balfour in 1905). Some social policy commentators fail to make distinctions between these reforms and the Beveridge proposals 35 years later seeing instead a 'causal sequence of events and policies which culminated in the welfare state of the second half of the twentieth century' (Saville, 1983:11).



But such a view ignores the precise historical preconditions which give rise to social policy at any given point in time and conflate many discrete influencing factors into a simplistic chain of causation. By contrast Saville lists 'three interrelated strands' of causation as,

- (1) The political calculations of ruling groups;
- (2) The economic and social needs of a complex industrial society;
- (3) Pressures arising from the mass of the population insisting upon social change (ibid).

Clearly all these factors have a part to play, but Fraser (1973) also stresses that the growing awareness of poverty (through pioneering social surveys, charity organizations and popular literature) heightened popular demand for change at the start of the twentieth century . Crucially, he distinguishes these humanitarian factors which promoted the liberal reforms from those which were to later underline more fundamental shifts in attitudes towards the poor between 1918 and 1945. During this period the experience of war exerted a profound effect on social policy. But the motivations of the politicians who advocated such change varied: for instance, in 1919 Addison argued that the First World War had shown 'hundreds of thousands of men who were physically unfit and could not pass the very moderate standard of physical fitness which the army required' (Marwick, 1965:242). Good performance in warfare began to be seen as contingent upon better conditions of welfare in peacetime. To this extent the promotion of health care, homes fit for heroes and financial protection against unemployment or sickness can be viewed as the logical and functional responses of the state to the need for a fit workforce and warforce.

Selectivity remained the theme dominating state provision for the poor in the 1930's. Benefits were targeted to meet the needs of those who could demonstrate such needs through means testing, and were not paid as of right, (that is, 'rights' that were accorded to all those individuals within a specific category or group) (Deacon and Bradshaw, 1983). Public attitudes towards the poor were, however, changing: poverty was less likely to be attributed to personal failings and there was a far greater appreciation of the misery it caused (ibid). But such misery was not equally distributed throughout the nation: for instance, in the early thirties the unemployment rates in Jarrow were up to 67% whereas High Wycombe experienced 3% (Fraser, 1973:180). Similarly, inequalities are evident in the national distribution of unemployment in the 1980's.

But the Second World War had a profoundly levelling effect in terms of human experiences across the boundaries of social class. This was partly because of the 'total' nature of the war itself and partly because of the social integration that evacuation, air-raid shelters and the like brought about (ibid). Titmuss also noted that the 'fair shares' slogan was an inevitable consequence of the unity of the 'Dunkirk spirit'. Universalism thus replaced selectivity as the desired theme of social policy because, as Fraser succinctly noted, 'a people's war had to produce a people's peace' (Fraser, 1973:194). But, the war-time goal of universal social provision was soon dissipated in the face of the problems of financing post war social policy. Moreover, these principles (which ostensibly underpinned the Beveridge proposals in 'Social Insurance') never materialized:

'It is a misconception to describe these measures as protecting the individual citizen or family "from the cradle to the grave", for the deficiencies in provision soon became apparent although for nearly



two decades they were masked, or partially masked, by the fact of near-full employment.' (Saville, 1983:15)

Not suprisingly, many alternative criticisms of the Beveridge Report stressed that welfare benefits would undermine the work incentive and that a universal benefits system would prove too costly for the taxpayer. These concerns mirror many raised in relation to early nineteenth century poor relief - the encouragement of idleness and (unduly) high costs for the ratepayers. In turn, these ideas are still present in the 1980's, particularly in New Right critiques of the welfare state (see Chapter 1 section 3 below).

Although the development of what is now termed the Welfare State cannot be seen in simplistic or causal terms, certain historical points of departure, for example in terms of changes in attitudes towards the poor, ideologies of poverty and strategies for dealing with poverty, are indicated by this (brief) review of relevant literature. Despite the vagaries of war, social upheaval, economic boom and recession, certain consistencies remain in the rhetoric used by policymakers relating to state provision of welfare. These consistencies may be summarised in the form of five themes which can be seen as emerging from this discussion of the historical development of welfare:

(1) The concern to maintain work incentives: this resulted in the principles of less eligibility in 1834, by the imposition of the 'Wage-Stop' in the 1960's and early 1970's, and the abolition of Wages Councils in 1985. Also, the 1980's have marked an effective reduction in benefits, particularly for the young and the unemployed (Walker and Walker, eds., 1987).



(2) The separation of the able-bodied unemployed as a distinct classification amongst the poor: this is evident in the 1834 Poor Law and in the further separation of the male unemployed from other groups in the 1850's. This distinction still operates in that the registered unemployed are the only category of supplementary benefit claimant not entitled to the increased long-term scale rate of benefits (see chapter 6 for discussion of future proposals).

(3) The implicit distinction which is made (theoretically and practically) between the 'deserving' and the 'undeserving' poor: the elderly and the sick are not regarded as 'undeserving' in popular rhetoric to the same extent as are the male unemployed (Furnham, 1985). Once again, this ideological distinction demonstrates the potency of the attitudes dating back to the 1834 Poor Law.

(4) The social cleavage created by ideologies of poverty and pauperism: in distinguishing worker from claimant, (and, in the past, the worker from the idle pauper), antagonism is produced within what may be termed the 'working ' class (Jordan, 1973; Hall et.al., 1978; Golding and Middleton, 1982). The extent to which this feature is a conscious attempt by the powerful to 'divide and rule' (Jordan, 1973) or the logical product of a competitive capitalist society is open to debate (Golding and Middleton, 1982). Nonetheless, the effect of such divisions is to open up the ideological space within which some groups who constitute 'the poor' may be both isolated and negatively stereotyped. This marginalization effectively enables differential responses to such groups, justified in terms of their status as undeserving 'scroungers' taking from the state: this response is amplified when such claimants engage in fraud.

(5) The contradictions between the principles of universalism and selectivity in welfare provision: universalism was embraced following the second world war as an expression of the desire for social cohesion and social justice. But selectivity through means testing never disappeared - the tension between the concepts of rights (universally available to all) and need (established through selective testing) is an important feature of twentieth century social policy. As will be argued in Chapter 3, this tension affects political and popular responses both to the taxpayer (who is seen to 'pay' for welfare) and to the the claimant (who is seen as a non-productive recipient).

These issues, arising from a review of literature on the history of the 'welfare state', will inform this thesis in important respects: for instance, the development of social policy in relation to the poor, policy in relation to the taxation of the 'non-poor', historical perceptions of the poor and the genesis of explanations for poverty itself are all crucial elements in forming a historical framework within which to locate the problem of differential response.

## 2) Theories of Penalty

Any thesis which deals with issues of law-breaking needs to examine the consequences of such actions in terms of punishment. Both supplementary benefit fraud and tax fraud are illegal acts involving official sanction, although the nature of such sanctions and frequency of their use does vary (as will be seen in Chapter 5). Possible reasons for such variations in penal sanctions include the argument that public resentment (and therefore official punishment), is more readily mobilized against persons who can be perceived as workshy or idle. Therefore it may



be argued that popular resentment may be more readily mobilized against benefit 'scroungers' than tax evaders (Sutherland, 1949). Furthermore, benefit claimants may be seen to perform a function for the state in times of economic slump as 'whipping boys of the recession' (Golding and Middleton, 1982). By virtue of their 'workless' status the unemployed poor may be represented as implicitly workshy, and as a result become marginalized as a social group (Marsden, 1982). This marginalization renders them more prone to the negative stereotyping and ultimately to the scapegoating process indicated by Golding and Middleton.

Marxist commentators may explain such marginalization as a technique of unofficial punishment, both for the claimants' failure to exhibit the virtues of the work discipline, and for their failure to compete effectively within the capitalist system. In this respect it is necessary to explore literature which links the ultimate official sanction, imprisonment, with the operation of the labour market under capitalism (Rusche and Kirchheimer, 1939). Alternative texts stress the role of non-penal modes of control (which may include education, medicine and social work), which exist alongside penal regulation in a series of linked institutions, or 'carceral archipelago' (Donzelot, 1979; Foucault, 1977). A variety of explanations needs to be examined in order to cast light upon differing modes of regulation (used both in contemporary British society and in past centuries), in order to understand the context and forms of regulation used to deal with the poor (i.e. supplementary benefit claimants) and the non-poor (i.e. taxpayers).

Rusche and Kirchheimer postulate a direct relationship between economic change and penal developments:

'Punishment as such does not exist; only concrete systems of



punishment and specific criminal practices exist . . . Every system of production tends to discover punishments which correspond to its productive relationships.' (quoted in Zdenkowski and Brown, 1982:3)

In particular they link the operation of the labour market and the sanction of imprisonment through the principle of 'less eligibility' :

'This principle posits that the standard of living within prisons (as well as for those dependent upon the welfare apparatus) must be lower than that of the lowest stratum of the working class, so that given the alternative, people will opt to work under these conditions, and so that punishment will act as a deterrent.'

(ibid:7)

It is argued that wage and poor law legislation had forced long hours and factory discipline upon the dispossessed landless labourer. The principle of less eligibility which underpinned nineteenth century poor relief may therefore be seen as a tool for the regulation of the landless labourer, both in the form of the workhouse and the penitentiary (Zdenkowski and Brown, 1982; Ignatieff, 1978). Ignatieff traces similarities in the architectural structures of, and disciplinary emphasis within, a variety of institutions that were built to house the sick, the mad, the pauper and the criminal:

'Since they made up a complementary and interdependent structure of control, it was essential that their diets and deprivations be calibrated on an ascending scale, school-workhouse-asylum-prison, with the pain of the last serving to undergird the pain of the first.' (Ignatieff, 1978:215)

Furthermore, Ignatieff argues that the model for all such institutions was the factory: demonstrating the links between prison reformers and the new

industrial employers (economically, ideologically and socially), he contends that 'penal and industrial discipline developed along the same trajectory of severity' (ibid).

Critics of this view (and of Rusche and Kirchheimer), may argue that such analyses assume a crude economic determinism which effectively reduces very complex relationships to a crude functionalist account of the operation of capitalist economies. It may be argued that this determinism fails to take account of differences in the development of specific types of institutions: asylums, schools and prisons are thus lumped together in a generalizing (rather than specific) analysis (Williams, 1981; Zdenkowski and Brown, 1982; National Deviancy Conference, 1979). However Melossi argues that although 'economism' cannot entirely account for the development of the prison and its structure, the concept of the labour market is a valuable one in understanding the history of such institutions (Melossi and Pavarini, 1981).

Such arguments are applicable to modern penal politics: for example Quinney argues that prisons perform the function of controlling marginal groups in society, particularly when capitalism is in a situation of crisis (Quinney, 1977). On the other hand Scull argues that decarceration is functional for monopoly capitalism because it limits the states' expenditure on imprisonment whilst favouring more subtle forms of social control within the community, namely psychiatry and social work (Scull, 1977). Both arguments can be synthesized if one accepts that imprisonment increases in times of economic crises and decarceration takes place once the crisis is past (Box, 1987). However, both assume a 'reading-off' of a punishment and regulation directly from economic factors, whether the explanation centres on labour market or economic



crises (Zdenkowski and Brown, 1982: N.D.C., 1979). This determinism can be challenged from a variety of perspectives, but the work of Steven Box will be emphasised here as it demonstrates a theoretical position closest to that adopted in this thesis. Box (1987) argues, on the basis of a weight of research evidence, that there is indeed a positive relationship between economic recession and criminal activity and the use of official punishment, whether imprisonment or repressive control within the community. But this link does not derive solely from the structural relationships between the capitalist state and penal politics:

'The key term in analysing the behaviour of judges, probation officers and police is not "materialism" but "meaning".' (ibid:197)

Box utilizes the notions of both materialism and meaning in order to elucidate the links between crime and recession in a way which seeks to illuminate contradictions as well as consistencies in the workings of a capitalist state:

'government policy is as much a reaction to events as a creator of them; as much a recipient of the consequences of others' decisions as a dictator of them.' (ibid:199)

It therefore becomes necessary to locate the actions of regulatory agents within a material, ideological and historical context in order to understand the logic in use in a particular situation at a particular time. To understand why tax and supplementary benefit fraudsters are treated unequally by regulatory agents, and why judicial and popular responses to them are so different, it is necessary to examine the meanings attributed to tax and benefit fraud by the fraudsters, the regulators and the public. These meanings are, as Box argued, not fixed and immutable, but change according to historical and material circumstances. The principal focus of



this thesis is to analyse the conditions under which differential meanings are constructed, and hence differential responses are justified.

The work of Foucault also offers a critique of Marxist theories of penalty. In seeking to explain the birth of the prison Foucault stresses the importance of disciplinary power rather than mode of production itself. Imprisonment under early capitalism therefore represented a desire 'not to punish less but to punish better', to use disciplinary power more effectively in order to 'insert the power to punish more deeply into the social body' (Foucault, 1977:82). In turn Foucault links coercive, corporal and secretive punishments with the development of a capitalist economy which enabled such a 'political anatomy'. He therefore attributes the development of disciplinary power within the prison to a more generalised 'discipline' which could be operated in a variety of institutions forming the carceral network (ibid).

Critics argue that Foucault fails to identify the precise origin of disciplinary power and that he also ignores the social and class context of such power relationships (Melossi, 1979; Lea, 1979). This debate has implications for this thesis in that differential treatment of tax and benefit fraud cases may on the one hand be seen to be 'read-off' as the product of class relations under capitalism (one law for the rich, another for the poor), or alternatively as an area of relative autonomy and struggle. The latter perspective does indeed allow for attempts by groups such as advice agencies, the D.H.S.S. Trade Unions and pressure groups (such as the C.P.A.G), to ensure the legal rights of benefit claimants accused of fraud, and also attempts to challenge current anti-fraud policy being operated by the D.H.S.S.. Similarly, such a perspective enables political space to allow explanations of current struggles against tax

evaders (and to some extent avoiders), and recent 'compliance' initiatives being mounted by the Inland Revenue.

Although the work of Foucault and other authors writing in the area of penology may initially seem removed from a topic of study in which 'the prison' does not necessarily play a part (as very few tax fraudsters, for example, are gaoled), the value of such literature lies in its broader applications. In challenging empiricist histories of penal regulation, many of the authors discussed above have provided the basis for an understanding of punishment in terms of penal politics and struggle. Moreover they opened up possibilities for a greater understanding of how change takes place and in what ways such changes (in penal relations) are articulated with 'wider social forces'. (Zdenkowski and Brown, 1982; Box, 1987).

There are two other issues concerning power and penalty which are of relevance to this thesis: first, the issue of formal equality before the law, and secondly the issue of the 'rule of law' as a means of ruling class ideological reproduction. As regards the first, Marx argued that 'The right of equality conveyed by the legal form is in fact a right of inequality, in its content, like every other right' (Zdenkowski and Brown, 1982:30). Second, the 'rule of law' may be seen to serve an ideological function in buttressing and legitimating ruling class domination. The application of the law in relation to those who fiddle welfare benefits and taxes does not appear to reflect genuine equality (as Chapter 5 will demonstrate). But the left idealist position that 'sees bourgeois rights as a sham' will be rejected because, as Jock Young (1979) argues, such a position regards any debates concerning the form and application of the law as legitimating the ideology of 'the rule of law' which so

successfully sustains the capitalist system. This thesis will take the view that the area of legal rights and penal regulation is an area of substantive struggle (ibid). The contradictory nature of the rule of law (both as upholder of ruling class interests, yet potential instrument against those interests), creates both a potential and a theoretical space within which struggles can take place. This thesis aims to engage in one such struggle in analysing and explaining differential judicial (and social) responses to tax and benefit fraud.



### 3) The Ideology of the New Right.

The term 'New Right' is one which is readily understood (and used) at a commonsense level, but which is extremely difficult to define precisely. Some authors use the term to denote a philosophy of neo-liberal economism which incorporates the ideas of a variety of authors including Adam Smith, Hayek, Friedman and Sir Keith Joseph (Bosanquet, 1983). Others use the term to refer both to this neo-liberalism and to an accompanying form of authoritarian conservatism which has gained prominence in recent years (Hall and Jacques, eds., 1983; Levitas, 1986). Authors writing from the perspective of what they term the 'New Right' tend to stress that it marks a distinct break from conservatism: conservatism is seen to focus upon authority, allegiance and tradition which implies the need for fundamental continuity in the nature of the social order (Green, 1987). By contrast, the New Right is seen to challenge that social order, principally in its interpretation of the relative roles of the state and the market in modern industrial societies (ibid). In order to relate the ideology of the New Right to the issues of taxation and welfare it is first necessary to examine the differing perspectives on what precisely constitutes the New Right. (For the purposes of this examination I shall rely largely on New Right commentators rather than upon the original works of authors such as Hayek and Friedman, as the thesis is sociological, and not oriented purely to economics).

New Right authors frequently present their arguments in a highly partial manner. Their analyses are not noted for intellectual sophistication: for instance, Irving Kristol (1978) (under the heading 'Infantile Liberalism- A Democratic Disorder?') argues against the motives and policies of social reformers:

'One usually concedes the sincerity of their moral passion while

questioning the efficacy of their proposals...But when their moral passion becomes intellectually petrified into a specific ideology, then sincerity can become transformed into a peculiar form of fanaticism.'

(ibid:216)

Kristol goes on to claim that reformers are in the business of justifying their own existence rather than helping the poor. Anyone who advocates greater social and economic equality is dismissed in unequivocal terms:

'To that species of infantile communism which calls for permanent revolution, many of our liberals today respond with a kind of infantile liberalism which calls for permanent reform.' (ibid)

Hayek articulates criticisms of egalitarian social reform in a similarly polemical fashion:

'The phrase social justice is not, as most people probably feel, an innocent expression of goodwill towards the less fortunate...it has become a dishonest insinuation that one ought to agree to a demand of some special interest which can give no real reason for it.'

(Hayek quoted in Green, 1987:127)

These examples serve to illustrate an important theme in New Right literature which Bosanquet (1983) calls 'antithesis'. The New Right is probably less identifiable because of what it is for and more identifiable for what it is against. The thesis and antitheses of the New Right will be examined below, but it is important to stress that New Right discourse is notable both for its antagonism and for its implicit conviction that critics are opponents, and opponents are fools. Furthermore, their own arguments are presented as value-free, and free from the 'fanaticism' of social reformers:

'The I.E.A. has firmly established itself as a non-partisan research Institute with a reputation for scholarly independence.' (Green, 1987:153)



Yet, as Loney (1986) notes, friends of the Institute of Economic Affairs featured prominently among the life peerages announced in 1982 as, under Mrs Thatcher, the Institute moved to the centre of 'intellectual' life.

The thesis and antitheses of the New Right will now be examined using the framework put forward by Bosanquet (1983) which is based upon economic theory. But, as already argued, the New Right can also be seen to include repressive elements of authoritarian conservatism (Levitas, 1986) and so the broadly 'economic' framework will be extended to include these elements.

TABLE 1: 1 PRINCIPLES OF THE NEW RIGHT: THESIS AND ANTITHESIS

<u>THESIS</u>	<u>ANTITHESIS</u>
1.Society inherently tends towards order and justice.	1.Politicization- search for equality democratic pluralism, tripartism. has intensified class conflict.
2.Inequality- inevitable result of social freedom, personal initiative.	2.Fallacy of the idea of 'social cost'
3.Capitalism will ensure economic growth and improved living standards in the long run	3.Shortcomings of the Galbraith thesis on corporate power in the 'New Industrial State'.
4.The entrepreneur is the key figure in ensuring all the gains that are to be had from economic growth.	4.Critique of rising public expenditure.
5.Economic growth will first reduce, then eliminate (absolute) poverty.	5.Critique of industrial subsidies
	6.Failure of the welfare state.
	7.Pressure from bureaucracy.
	8.Critique of Trades Unions.

The first principle of the New Right thesis is that society has 'natural' tendencies towards order and justice. The central force which accomplishes such integration within societies is economic growth



(ibid). But, the role of other institutions should not be overlooked: for instance many commentators point to the role of the institution of the nuclear family in achieving the regulation of individuals, both in personal terms (the channeling of sexual drives), and in economic terms (through the division of labour within the household unit) (Fitzgerald, 1983; Wilson, 1983; David, 1987). At the same time the family may serve as a training ground where the values of the free market can be transmitted. Edgar (1986) illustrates this point by referring to a recommendation by the government's 'Family Policy Group' that such values may be taught by 'training children to manage their pocket money' (Edgar, 1986:75).

The second principle is that inequality is the inevitable and tolerable result of social freedom and personal initiative (Bosanquet,1983). Equality in reward is seen as undesirable because the uncertainty and risk surrounding personal reward is crucial in providing incentives to effort and risk-taking. Therefore 'there is no conflict between freedom and equality of opportunity, but much between freedom and the search for equality of outcome' (ibid:11). 'Freedom' is a word which figures prominently in New Right discourse, but which has profoundly contradictory applications: for instance, Levitas (1986) argues that Thatcher disliked the freedom from social bonds implied in the individualism of the 1960's and, rather, sought 'a mode of freedom that is compatible with virtue' (ibid:92). This inconsistency in the use of the concept of freedom serves to valorise freedom in economic terms, but not in personal terms. However, inconsistencies such as these can be regarded as strengths (not weaknesses) of a brand of New Right ideology (Thatcherism) which incorporates economic liberalism with the moral concerns of conservative authoritarianism (Levitas, 1986; Hall and Jacques,eds, 1983). The consequence of the New Right's highly selective emphasis on 'freedom' is that

it becomes possible to justify social and economic inequality in the name of individual 'freedom', whilst at the same time denying many individual liberties to those who are not regarded as 'virtuous' (for instance, trades unionists, women who 'fail' in respect of their assigned role in the nuclear family, and homosexuals) (Levitas, 1986; David, 1986; Edgar, 1986). As Gamble summarises,

'The "individualism" of the New Right is not a creed of universal opportunity for all individuals whatever their sex, age or race.

It is primarily a creed of opportunity for male heads of families who receive the rewards of enterprise and in return are made responsible for their dependants - women, children and old people. Maintaining the social cohesion of families by non-market means is seen as an essential prop for a free market economy.' (Gamble, 1986:47)

The freedom of the New Right is therefore restricted in two ways: first, it fails to apply to many socially (and economically) disadvantaged groups in society. Second, it is restricted in scope to economic freedom, and thus can be defined as freedom 'to get' and not freedom 'to be' (Gallie, 1976). This is the essential difference between liberal and socialist morality, and between free market and social justice ideologies (see Chapter 3).

The third, fourth and fifth principles of the New Right thesis are to a large extent inter-dependant. It is argued that capitalism will, in the long run, ensure economic growth and improved living standards for all. According to Bosanquet (1983) Friedman argues that the combination 'of economic and political freedom produced a golden age in both Great Britain and the United States in the nineteenth century' (ibid:12). However, what Friedman sees as a 'golden age', others (according to Bosanquet, Schumpeter) see as a period under which capitalism brought change through 'creative destruction' (ibid).



Nonetheless, the architects of change, and hence the key figures in ensuring all the gains to be had from economic growth, are the entrepreneurs. Schumpeter sees them as 'driving the chariot of creative destruction', but most New Right commentators would see the role of the entrepreneur, (in taking the burden of 'risk' and taking the initiative in discovering new businesses and consumer preferences), as vital for the creation of wealth (Vinson, 1980; Burton, 1985). Furthermore, it is argued that the creation of wealth is a prerequisite for reducing poverty: economic growth will eventually offer greater absolute benefits for all, and in so doing will eliminate absolute poverty (Bosanquet, 1983; Myddleton, 1979).

Bosanquet rightly emphasises that the thesis of the New Right is based upon qualitative assumptions rather than quantitative economic study, and so it invariably rests upon a faith in the value of (and the smooth operation of), the free market. By contrast its antithesis is based on a more quantitative critique of the alleged failure of the modern democratic state. The origin of the problems of the modern state lie precisely in its 'democratic' nature. New Right theorists would therefore argue that democratic pluralism has led to a short-term policy emphasis, geared to meeting the demands of a variety of interest groups who, under democratic principles, have an influential political voice. Therefore the root of the antithesis is this process of politicization (Bosanquet, 1983).

Politicization can be seen from the New Right perspective as the process of political choice, motivated by envy and potentially leading to the despotism of the majority (ibid). Some authors, for instance Hayek, (Bosanquet, 1983; Green, 1987), advocate the taming of democracy through constitutional change, lest the nation be turned into a totalitarian slum. Politicization also involves the involvement of Trades Unions in the framing



again the New Right can be seen to conflate economic and social arguments into a powerful ideology which serves to legitimate and promote the interests of the economically successful few, whilst acting against the interests of both the 'failed' poor and of those who try to advocate social justice.

The critique of state intervention is also bound up in the third and fourth principles relating to corporate power and to public expenditure. It is argued that, contrary to Galbraith's thesis, corporations in the new industrial state remain subject to market uncertainties and so are not over-powerful (Bosanquet, 1983). As a result, the New Right advocates non-intervention into corporate and business life: there is, allegedly, no concentration of power in the hands of a few because the free market can be trusted as an effective form of regulation. Similarly, intervention by means of industrial subsidies (often a consequence of the 'politicization' process), is regarded as an undesirable manipulation of market forces, and, moreover, it does not work (ibid). Public expenditure is increased by all such interventions, (whether into welfare, business regulation or subsidies). For instance, first there are the costs of the 'subsidy' itself and second, there are the costs of the bureaucracy which administers such interventionist policies (Gamble, 1986). The tendency towards rising public expenditure is perceived as cutting away at possibilities for wealth creation by wasting resources on the dead weight of bureaucracy, which in turn is financed by taxing the wealth creators themselves (Boyson, 1978).

The thesis and antithesis briefly outlined here indicate the powerful intermeshing of economic liberalism and authoritarian conservatism which constitute New Right discourses. Clearly some authors emphasise some elements at the expense of others: for example, Bosanquet argues that Friedman stresses the economics of monetarism which involves tight control of money

supply and switches the economy 'to automatic pilot', leaving all regulation to the market (Bosanquet, 1983). By contrast, Hayek is seen to acknowledge the need for the state to ensure a minimum level of security and subsistence. He also saw the value of a third force in the economy in the shape of the voluntary sector (Loney, 1986). Furthermore, Bosanquet sees Hayek's arguments as not deriving from economics alone, but from a wider political philosophy in which constitutional change was a necessity if modern democracies were to be restored to economic health (Bosanquet, 1983). At the same time many New Right commentators stress the moral rather than the economic aspects of the crusade in which they are engaged (Edgar, 1986). However, as mentioned earlier, such inconsistencies may be regarded as strengths when they are successfully packaged together in a composite ideology, as in the case of Thatcherism:

'The alliance between the monetarists proclaiming freedom through the market and anti-libertarian traditionalists. . . provided the means of appealing to two distinct constituencies. It also afforded intellectual support for the authoritarian direction in which the Thatcher government moved.' (Loney, 1986:34)

The mixture of the economic and the moral in the political discourse of the New Right is crucial in enabling the mobilization of both moral and economic arguments against the poor when they engage in rule-breaking, or even when do they not: benefit claimants are still regarded as potentially undeserving merely as a result of their lack of productive economic status (Boyson, 1978). At the same time, the ideology of the New Right valorises the role of the wealth creators and advocates minimum regulation in their economic sphere for two main reasons: first because intervention by the state is seen as in essence both immoral and ineffective (Green, 1987). Second,

because state regulation of the economy and (high) taxation are perceived as hampering wealth accumulation and stifling incentives (but see review of economic literature in (2) above for a clear rebuttal of this latter assumption).

Literature concerning the New Right is therefore of central importance in examining the ideological preconditions which enable different political, social and judicial responses to the frauds of the rich and the poor. The historical and material circumstances under which the ideology of the New Right sustains dominance in the public rhetoric will be explored in Chapter 6.



#### (4) LEGAL ISSUES.

The very nature of literature covering the legal aspects of tax evasion and supplementary benefit fraud in itself demonstrates differences in the way both forms of fraud are perceived: there is much more written about the legal issues concerning the former than the latter. As Tony Lynes noted, supplementary benefit remains 'a back-water of British Justice' (Fulbrook, 1978). Despite Julian Fulbrook's view that legal scholars should be 'digging into the details and realities' of the departments and tribunals involved in administering justice for the unemployed, this area remains relatively neglected when compared with the lawyer's interest in taxation (ibid). The legal complexities involved in tax evasion and tax avoidance (and problems in distinguishing these activities), are 'horrendous' (Leigh, 1982). This is probably a reflection of the lucrative nature of such activities, both for the fraudsters who engage in them and for the tax lawyers they may employ. The scale of the sums which may be involved are evident in the case of the two founders of the Rossminster group, specialists in tax avoidance schemes. Following a four year investigation they were served with tax demands exceeding £30 million (Observer 19.2.84, 8.4.84). By contrast, in cases of supplementary benefit fraud the amounts of money involved are small, legal representation is frequently non-existent (see Chapter 5(3)), and justice is administered swiftly and summarily (Uglow, 1984).

Although some comparisons have been drawn between the law relating to tax fraud and that relating to supplementary benefit fraud (Uglow, 1984; N.A.C.R.O., 1986), generally the literature reflects a division between the lawyer's interests in two separate areas:

(a) Tax avoidance, evasion and the law

(b) Legal issues relating to supplementary benefit fraud.

The following review of relevant literature will therefore reflect this division.

(a) Tax avoidance, tax evasion and the law

Much literature relating to tax evasion and avoidance is geared to the needs of the taxpayer in seeking to minimise his/her tax liability (Wylie, 1983), and therefore tends to adopt a negative stance towards personal taxation itself. This is clear, for example, in Monroe (1981), whose Hamlyn lecture on the laws of taxation was entitled 'An Intolerable Inquisition'. Unashamed hostility towards taxation underlies many commentaries by interest groups such as the Institute of Economic Affairs (Seldon, 1979; I.E.A., 1977). For instance, such authors admit that there is a legal distinction between tax evasion and tax avoidance, yet fail to see a direct relationship between breaking the tax laws and the violation of moral codes:

'I think also that we must dismiss from our minds the idea that there are any ethics in taxation. There are no ethics in taxation. There is no moral law in taxation. And tax avoidance, in my view, is not a moral issue. Tax evasion is a different case - but only when it involves a breach of a normal code of human behaviour, when it is breaching the moral laws and not the tax laws.'

(Lord Houghton, 1977:60).

This argument seems to imply that breaking the tax laws may not give rise to a 'moral' wrong and that breaking the spirit of the law (though not the letter) by avoidance of tax is not a moral issue in any sense. Behind such

arguments are notions of the state and of morality which overlap with the ideology of the New Right . The activities of the state are seen as burdensome and intrusive, particularly evident in the collection of personal taxes. At the same time there is an expressed belief in a moral sense of right which is independent of the state, and ultimately independent of the operation of democracy itself (see analysis of the ideology of the New Right in section 3 above). By contrast, Sandford (1980) would argue, from the perspective of democratic pluralism, that both evasion and avoidance of tax run counter to the law and to the will of government. These activities violate the letter and the spirit of the law respectively, and also serve to distribute income and wealth in a way which is unintended by democratically elected government.

The whole concept of the rule of law is once again turned on its head in arguments which see successful tax avoiders as positive contributors towards the maintenance of personal liberties, which governments (who try to act against tax avoidance schemes), allegedly threaten:

'... anti-avoidance has become an instrument for the erosion of law and for the stimulation of totalitarian attitudes and practices ... Hence, though it can be in some respects a vice, tax avoidance is now much more of a virtue. In our semi-totalitarian democracy the tax avoider renders us all two services. He upholds the Rule of Law, and he undermines policies of confiscation. Does he not deserve at least some modest applause?' (Shenfield, 1968:34-5).

Such arguments serve to transform the dubious 'morals' of tax avoidance into a positive virtue when directed against the 'semi-totalitarian' democratic state. Within this rhetoric are echoes of early anarcho-libertarians who saw the liberty of the individual as paramount and so



regarded taxation as 'robbery' (Green, 1987). At the same time such arguments also reflect Hayek's concern with the drift to totalitarianism which he saw as resulting from the despotism of the majority - democracy (Bosanquet, 1983; Green, 1987). Furthermore, there is another important assumption which underlies (old and ) New Right discourses on the rights and wrongs of taxation and tax evasion - the assumption that tax crime is not 'criminal' at all. This, coupled with the Right's version of the incentives argument, is evident in the comments of another I.E.A. author:

'It may seem rather harsh for citizens whose services are most valuable, and who can therefore earn most, to be treated like criminals when they prefer to keep more than 1/6 of their marginal earnings.' (Myddleton, 1979:47).

The assumptions here are essentially in the functionalist tradition (Davis and Moore, 1945) in assuming that there is a positive relationship between the most functionally important skills and greatest financial rewards. Myddleton clearly feels that these most 'valuable' citizens cannot be real 'criminals'. They are merely victims of high marginal rates of taxation. The crime of tax evasion is thus transformed by such discourses into a preference 'to keep' ones earnings. Legal issues are therefore effectively dispensed with and replaced by the rhetoric of liberty, which is itself 'above' and distinct from the law and the state. The perceived relationship (or not) between morality, liberty, law, and state is therefore of crucial importance in explaining attitudes towards tax crime.

Tax crime, (like other forms of crime), is also understood and represented in terms of the typical offender, who is likely to be successful in occupational and financial terms. The disjunction between the high status of the typical offender and the objective reality of law

breaking is rendered explicable by reference to broader stereotypes of the 'real criminal'. Hence Myddleton goes on to explain that 'some tax evasion has always resulted from real criminals not declaring as taxable income the rewards arising from their "profession"' (Myddleton, 1979:47). To demonstrate this point he cites the example of the criminal Al Capone who was jailed for tax evasion. It seems that if real criminals like Al Capone evade taxes then this is a criminal act, yet if other 'professions' engage in the same activity they are not perceived as criminal, but rather as valuable citizens exercising their 'right' to keep their marginal earnings. According to such rhetoric, criminality is seen as a product of the status and nature of the offender rather than the product of acts which violate the law (see also discussion of penalty in section (3) above). This notion is important in the context of this thesis as it may help to explain why tax and benefit fraudsters are perceived and treated differently by departmental officials, judiciary, media and public.

A more detached and circumspect view of British Tax law is provided by literature which aims to outline legislation and important cases upon which current tax law is based (Lewis, 1977). Case law dates from 1874, but for the purposes of this thesis 1948 and the Case of the Duke of Westminster v. I.R.C. provides a watershed, as it helps to draw the line between legal avoidance and illegal evasion. In his judgement Lord Tomlin stated,

'Every man is entitled if he can to order his affairs so that the tax attracting under the appropriate Act is less than it otherwise would be. If he succeeds in ordering them so as to secure this result, then, however unappreciative the Commissioners of Inland Revenue and his fellow taxpayers may be of his ingenuity, he cannot be compelled to pay an increased tax.'

(Lewis, 1977:25).



But if liability is minimized by 'omissions from returns of income, mis-statements or.. fraud' then illegal evasion has taken place (ibid). The difficulty lies in establishing intent to evade tax: this is particularly so when attempting to decide, as in the Rossminster case, when an avoidance scheme is 'artificial' and hence constitutes illegal evasion of tax (Leigh, 1982).

As Steve Uglow notes, 'All the offences which the Board can call on involve proof of dishonesty in one form or another' (Uglow, 1984:135). Therefore the provisions of the Theft Acts, Finance Acts and Taxes Management Act (T.M.A.) 1970 under which proceedings can be brought all involve an element of 'mens rea' which is difficult to prove. It is also important to note that provisions of T.M.A. 1970 do not create criminal offences but civil proceedings: this seems to justify Uglow's observation that 'the Revenue do not consider the criminal law to be an effective tool for dealing with fraud' (Uglow, 1984:36). This point seems substantiated by the infrequency of the Board's prosecutions (see Chapter 5(3)).

The literature concerning tax law indicates the complexity of the laws involved. Even when cases are brought to court (that is, when the Revenue is satisfied there is a case to answer), the legal issues appear yet more complicated. Evidence to the Keith Committee Report (on the enforcement powers of the Revenue departments) illustrates this point: former Attorney General, Lord Shawcross stated that

'it is often very difficult for a jury to understand what fraud cases are about. Often the judges do not understand it themselves. Or they are not strict enough and allow defence counsel to confuse everyone and drag out the trial for a ridiculous length of time'.

(Keith Committee Report, Cmnd 8822, 1983: 8.1.3.)



The Report also quotes Levi's research which found that in 1978/9 the average length of trial in a contested case of conspiracy to defraud was found to be 5 working weeks at costs up to £10,000 per day (ibid). This illustrates the complex and protracted nature of tax fraud cases and the enormous costs involved in bringing a prosecution. (As will be argued below, supplementary benefit fraud cases rarely present such problems for the enforcing department).

The Keith Report summarises many of the difficulties involved in regulating tax evasion by comparing the investigation of tax fraud with 'ordinary police work':

'The question for [tax] investigators is not "who has done it?" but "has anything been done?", and to establish whether the circumstances amount to fraud requires an initial investigation in circumstances where all or nearly all the evidence is likely to be in the hands of the suspect.' (Cmnd 8822, 1983:8.1.5).

Levi (1982) argues that the lack of observability of tax offences renders investigation extremely difficult and, as a result, more investigatory powers are needed. But when the Revenue's powers are exercised, albeit rarely, the legal issues which arise are more likely to reflect the interests of the taxpayer than the tax-gathering duty of the Revenue. For instance in the wake of the 'raids' (legal searches) on Rossminster directors, debate inside and outside parliament focussed on the alleged invasion of individuals' privacy, the allegedly 'draconian' powers of the Revenue and the threat which was being posed, according to Lord Denning, to the 'elemental right' of property (Daily Telegraph 17.8.79). The issues surrounding the avoidance or evasion of substantial amounts of tax due become lost in a swell of indignation at the Revenue searching business

men's homes (with appropriate warrants), for evidence. Once again the type of alleged offender and 'non-criminal' perception of the alleged acts combined to turn the tables upon the Revenue investigators themselves. It is difficult to see how this process could operate in relation to other forms of crime, notably benefit fraud (B.B.C. Grapevine The Oxfraud Incident, 1983).

Finally an additional source of literature needs to be mentioned although its usefulness for the purposes of this thesis is limited: specialist tax lawyers and accountants have produced what amounts to 'guides' to Revenue investigation procedures (Pritchard and Jones, 1976). Literature of this kind seeks to guide the authors' typical clientelle by giving information on departmental procedures, sample cases and likely outcomes of investigations. Although useful in providing the tax specialists' perspective on Revenue investigatory practice, the procedures they outline are subject to frequent change in response to shifts in policy and manpower. As a result such works can become quickly out-dated and so official departmental sources, (such as the Board's Annual Report, Keith Committee Report and Public Accounts Committee evidence), give a more accurate picture of counter-evasion policy and practice.

The lawyers' interest in tax avoidance and evasion is likely to reflect the values and vested interests of the particular author involved, and consequently literature varies from the polemical (I.E.A., 1979) to the critical (Uglow, 1984) and also includes the 'consumers' interest (Wylie, 1983; Pritchard and Jones, 1976) in the form of specialist guides to handling Revenue enquiries and low-level avoidance strategies.

For the purposes of this thesis the most valuable literature within the 'legal' category involves a comparative analysis of the differential rules



and sanctions used in the regulation of tax and supplementary benefit fraud (Uglow, 1984; N.A.C.R.O., 1986). Differential sanctions are in part the product of D.H.S.S. and Revenue policy, but departmental policy is not created in a legal vacuum. Uglow (1984) argues that departmental practice also mirrors 'the availability and development of the substantive charges used against the different types of offender'. Therefore it is significant that the offences available to the Inland Revenue require proof of 'mens rea' in the form of an intent to defraud, whereas the D.H.S.S. only has to show that a false statement has been knowingly made, and no wider 'dishonesty' needs to be proved (ibid). The key question that Uglow poses is therefore crucial to this thesis:

'are the polices stressing the criminal aspect encouraged by the relatively easier task of prosecuting strict liability offences?'

(Uglow, 1984:130)

The Revenue's non-prosecution policy may appear to be justified as a pragmatic response to the difficulties involved in bringing prosecutions and also as a pragmatic response to the department's primary duty - to collect taxes due. However, it is the precise nature of the law itself which creates problems (discussed above) in mounting successful criminal proceedings against tax evaders. Ultimately therefore the law is responsible for the relatively lenient approach to the tax evader and for justifications of this leniency on the grounds of 'pragmatism'. In seeking to explain why tax evaders and benefit fraudsters attract differential legal regulation and sanction it is necessary to consider wider issues concerning a variety of economic, political and social relationships: these relationships can be summarised as follows:



- 1) the taxpayer and the state
- 2) the benefit claimant and the state
- 3) the Law and State .

Tax and benefit fraud are crimes: the law defines the boundaries of legal conduct in relation to the citizen's duty in paying to and in claiming from the public purse. But the law is framed within a specific set of material and ideological conditions which enable differential responses to taxpayers (givers to the state) and claimants (takers from the state) when they defraud the public purse (see Chapter 3).

**(b) Supplementary Benefit fraud and the Law.**

As already indicated, literature relating to supplementary benefit and the law is limited and falls into two principle areas:

1) works best described as 'guides' to welfare law, aimed either at the consumers themselves or at professionals working with claimants (Mesher, 1983; Lynes, 1985; HMSO, 1981; C.H.A.R., 1986; Alcock and Harris, 1982).

2) literature which gives a critical perspective on social security law, either in general terms (Fulbrook, 1978; N.A.C.R.O., 1986) or in relation to specific issues: for instance critiques of the treatment of claimants caught up in the Operation Major anti-fraud 'swoop' in Oxford (Franeay, 1983) or the treatment of women under social security law (Luckhaus, 1987; Ungerson ed, 1985; Atkins and Hoggett, 1984; Brophy and Smart, eds, 1985; Wilson, 1977).

In the case of the former, such literature is useful in specifying what precisely constitutes supplementary benefit fraud - to 'knowingly make a false statement' for the purposes of obtaining benefit being the essence of the offence. In addition, such 'guides' seek to inform claimants of their rights during investigations, court proceedings or at appeal tribunals. As

argued in many critical texts, ignorance of such rights or of the nature of fraud proceedings may well affect the treatment the claimant receives (Franey, 1983). In turn, differential access to specialist advice, legal counsel and to knowledge of departmental procedures may amplify existing inequalities in the form of the law (Uglow, 1984) leading to an accentuation of the problem of differential response. Franey's examination (1983) of the treatment of allegedly homeless benefit claimants in Oxford during Operation Major illustrates the denial of basic civil liberties to those with least knowledge of their rights and least power to demand them.

Critical analyses of social security law offer useful insights into the assumptions which underlie current welfare provision. For instance, Fulbrook (1978) points to the legacy of distinctions between deserving and undeserving poor which undermined the concept of legal rights to supplementary benefit. Although the Ministry of Social Security Act (1966) had aimed to reduce the stigma attached to claiming 'National Assistance', the ideas of the old National Assistance Board (and relatively punitive attitudes towards claimants) were deeply entrenched. Beneath these attitudes lay the 'poor law' mentality whereby the elderly, disabled, children and sick were seen as 'deserving', but other individuals in poverty were not. Fulbrook therefore argues that the present Welfare State and administrative structures for dealing with the unemployed reflect fundamental dichotomies: between altruism and self-interest, between compassion and indifference, and between the belief that the poor are hapless victims and the notion that they are responsible for their own plight (Fulbrook, 1978).

These dichotomies are manifest in contradictions between the apparent legal rights to supplementary benefit and the effective administrative regulations which govern how the rules laid down by parliament are to be



interpreted. These regulations were collected in the 'A Code' which Fulbrook saw as 'quasi-law' but which, contrary to the spirit of rights, was not accessible to members of the public and so remained essentially 'secret' in nature (Fulbrook, 1978). The A Code is now known as the 'S Manual' and is, theoretically, available for inspection at local social security offices (Lynes, 1985). But Fulbrook's argument, that apparent legal rights may be effectively denied through the application of complex administrative rules, remains a valid one. (In addition, the notion of 'rights' for supplementary benefit claimants has been greatly eroded since this book was written in 1978: for instance, see Chapter 6 for a discussion of work-tests).

The contradictions which Fulbrook outlines are bound up with the fundamental differences between the ideologies of social justice (advocating social equality through a redistributive state and claimants' rights, and liberalism (advocating minimalist state intervention and emphasising individual responsibility) (see Chapter 3). These contradictions must be considered when analysing the form and content of the law relating to taxpayer and benefit claimant. The law appears to give 'the benefit of the doubt' to the taxpayer in cases of suspected fraud by requiring that 'mens rea' or interest must be proved (Cmd 8822, 1983; Uglow, 1984). But no such proof of intent is required in cases of supplementary benefit fraud: such strict liability offences thus make for far easier prosecution (Uglow, 1984; N.A.C.R.O., 1986). The specific nature of the laws involved in regulating tax and benefit fraud therefore lies at the heart of differential response to tax and benefit fraud. In turn the law itself arises from political and economic relationships within a society at particular times. In order to understand such relationships it is necessary to examine sociological literature.



##### (5) SOCIOLOGICAL LITERATURE.

The discipline of sociology contributes an important and wide-ranging body of literature which is relevant to this thesis. In the sense that sociology is concerned with both the study of social structure and social action it offers differing perspectives on the topic of tax and social security fraud. First it deals with issues of social structure: economic and social inequality, power and authority, the nature and effects of social institutions (such as the mass media), and the role of organizations and bureaucracy in complex industrial societies. Second it deals with human interactions and meanings at the level of groups and sub-cultures in addition to probing how individuals perceive and understand and constitute their social world. Neither of these two major foci are mutually exclusive as modern sociology is increasingly attempting to reconcile the macro and micro approaches to the understanding of social phenomena, and nowhere is this more evident than in the sociology of crime and deviance (Taylor, Walton and Young, 1973; Hall et.al, 1978; Box, 1987).

Relevant sociological literature is broad ranging and impinges on the issue of economic crime in general, and tax and benefit fraud in particular, from a variety of angles. The review of sociological literature which follows will reflect these differing perspectives, but will also entail some degree of overlap, particularly as modern criminology draws on theoretical and empirical work from other areas of sociological concern (for instance, organizational and media sociology). Bearing in mind the problems posed by a significant overlapping of key themes, the following broad headings will be used in order to simplify the task of reviewing such an extensive body of relevant literature:-

- (a) Social and economic inequality.
- (b) Issues raised by organizational sociology.
- (c) Criminological literature.
- (d) The sociology of the mass media.
- (e) Social psychology.

(a) Social and economic inequality

Sociologists differ greatly in their assessment of the extent and importance of social inequality in Britain. In the decade following the onset of the post-war economic boom, some sociologists optimistically heralded the beginning of a classless society (Marshall, 1950), or 'the end of ideology' (Bell, 1960). However, the persistence of class-based inequalities was demonstrated by sociologists who, following the 're-discovery of poverty' in the 1960's (Mishra, 1984), claimed that Britain was far from a classless society and remained as divided as ever (Abel-Smith and Townsend, 1965; Atkinson, 1975; Wedderburn, 1974; Westergaard and Resler, 1975).

This debate has a long history. In 1830 John-Stuart Mill had expressed the optimistic view that

'Eight centuries ago society was divided into barons and serfs...

At every successive epoch, this inequality of condition is found to have somewhat abated; every century has done something considerable towards lowering the powerful and raising the low.'

(Beteille ed., 1969:45)

Over a century later Marshall (1950) argued that inequality was declining significantly, due largely to the enfranchisement and rights of 'citizenship' which had been accorded to the masses following two wars.

He declared that class and citizenship were 'at war' and that citizenship was winning (Marshall, 1950). This concept was taken-up by other sociologists who similarly believed that democratic pluralism would end inequality and class conflict:

'democracy is not only or even primarily a means through which different groups can attain their ends and seek good society; it is the good society itself in operation.' (Lipset, 1960:403)

Runciman argued that inequality existed only to the extent the individual perceived him/herself as deprived and so 'relative deprivation' could be seen as a means by which the full extent of social and economic inequalities are not fully experienced by individuals, and a means by which social integration (despite class inequality) is achieved (Runciman, 1966).

The Weberian concept of status was also employed to explain the relative diminution of class inequality and conflict in twentieth century Britain. Halsey (1981) argued that differences in status between social groups effectively blurred class-based economic differences. Halsey combines the concept of citizenship, status and relative deprivation in his explanation of the accommodation of change with fundamental continuity, in British post war society. However, critical sociologists would point to the ideological role which status differences and the concepts of citizenship and relative deprivation perform in reducing the individual's awareness of the true extent of social inequality (Westergaard and Resler, 1975; Parkin, 1971; Miliband, 1969). At the same time the ideology of equal citizenship (like that of equality before the law) serves to legitimize the existing economic and social order as just and fair. Whilst perhaps agreeing that class and citizenship are indeed 'at war'



many marxists would see the battle as an ideological one in which citizenship is little more than an aspect of false consciousness: therefore, in direct contrast to Lipset, Sweezy does not see democratic pluralism as an answer to the problems of disadvantaged groups, a means of ending inequality, and an end in itself:

'Far from being anathema to the ruling class, democracy came to be regarded as the best and least expensive method of governing.'

(Sweezy, 1980:27)

Sociologists' assessments of the extent of political, economic and social inequality are directly related to their particular values and beliefs: if society is seen as basically stable, consensual and 'open', then inequality is seen as declining, as a relative concept and even positively functional in a meritocratic society (Davis and Moore, 1945). By contrast, if society is seen as based upon conflict between economically based classes, unequal and 'closed', then inequality is both endemic and destructive (Giddens, 1973). Both perspectives are directly relevant in understanding differential response to tax and benefit fraud: both sets of arguments are still invoked in discourses which justifying relatively lenient treatment of tax evaders and in discourses which criticise harsh responses towards benefit fraudsters. For example, the functional perspective underlies the views of an architect of New Right social policy in the U.S.A. whose work has been influential during the 1980's in Britain: George Gilder, author of 'Wealth and Poverty' argues that 'in order to succeed the poor need most of all the spur of their own poverty' (quoted in Loney, 1983). Taking the argument still further, Sir Keith Joseph had argued that 'people want more... But equality is the enemy of more... The pursuit of equality will turn this country into a totalitarian slum'

(Observer, 22.8.75). But it is precisely this use of populist imagery (or ideology) that radical sociologists point to as being the source of negative images of the Welfare State and its claimants. Stuart Hall therefore comments on the other side of the ideological debate :

'... What the people want! Thus "the people" also come to be represented as consenting to the erosion of their own hard-won and barely-secured "rights", in a society where massive inequalities of power, property and wealth continue to be secured. This is how the consensus ~~against~~ social rights is ideologically constructed.'

(Hall, 1980:7).

One important aim of this thesis is to examine precisely how the consensus against welfare 'scroungers' (and attitudes favourable to tax fraudsters) have been constructed and maintained. In the case of tax fraud, the functionalist assumption (Davis and Moore, 1945) that social inequality is an 'unconsciously evolved device' by which the most able and talented few are rewarded, (in accordance with the functional importance of their contribution to society), clearly underpins the view of many old and New Right commentators who justify the crimes of high status tax evaders in terms of the need to maintain high rewards and incentives for these 'talented few'.

Sociological debates concerning the desirability or undesirability, reduction or persistence, limits or extent of economic, social and political inequality are therefore essential to this thesis for two main reasons:

- 1) They provide a theoretical framework within which one particular form of inequality (differential response to tax and supplementary benefit fraud) can be analysed.

2) They also provide an insight into the rhetoric used (by fraudsters, by regulatory agents and in popular discourse) to justify the commission of these frauds and the varied responses to them.

#### (b) Organizational Sociology

Tax and benefit fraud often involve activities, (such as moonlighting), which are learned by the individual in the process of adapting to the goals and culture of the work group or larger employing organization. In addition, tax fraud, in particular, may be associated with organizational goals and structures which pre-dispose workers to committing certain types of fraud. Examples of the influence of such occupational factors are Gerald Mars' study of pilferage by dock workers (Mars, 1974) and Ditton's study of the work of breadroundsmen, where 'fiddles' were institutionalized and so became part of 'learning the ropes' for new employees (Ditton, 1977). In discussing the fiddles of higher status workers, Michael Clarke outlines the deviant activities of elites in organizations ranging from Pergamon and Poulson to British Leyland and the Crown Agents (Clarke, 1981). It is in this context that Edward Heath's (often mis-quoted) comment is located :

'The activities of the firm of Lohnro are not so much the unpleasant and unacceptable face of capitalism as the inherent logic of Capitalism.' (ibid)

In this respect the link between an organization's search for profit and shady business transactions, or even fraud, becomes clear: economic crime is compatible with the inherent logic of capitalism. Furthermore, it can be seen not as the criminal acts of certain deviant individuals, but rather as



the product of the 'slippery slope' of dubious organizational and business practice (Chambliss, 1978; Levi, 1987).

The rules which apply to elites within organizations may also contribute to the commission of fraud by providing ready opportunities for illegal activity to take place. But these opportunities are to some extent taken-for-granted as providing 'perks' for certain higher status individuals: for instance, in discussing the business activities of some M.P.s (including Reginald Maudling ), Clarke notes the sympathy which some journalists expressed for men such as Maudling, who was seen to have 'a right as a member of his class to earn some money in a hurry after that length of ill-paid public service' (Clarke, 1981).

Admittedly opportunities for fraud or 'fiddles' exist in most occupations (Ditton, 1977; Henry, 1978; Mars, 1982), but what differs is the societal reaction to those fiddles. As Gerald Mars notes

'fiddles on the Khashoggi/Lockheed scale and the massive tax evasions that these inevitably involve invite an awed admiration: social security fiddles, however ingenious, do not.'

(Mars, 1982:225).

Mars argues that such reactions do not only result from class and privilege, but also from the different occupational structures which produce them. If the offender is 'demonstrably in a different league' then the observer feels he is no personal threat. By contrast, Mars argues, small-scale social welfare fiddles involve offenders who are despised 'whether [they] fiddle or not' (ibid:226). However, although providing a useful description of differing opportunities for and attitudes towards tax and benefit fraud, Mars fails to explain the genesis of such differential response. Ultimately the (structural) differences in 'class and

privilege' remain undeveloped here, and so does any analysis of the formation of those ideologies which 'despise' the poor and 'admire' the rich.

Much literature in the area of organizational sociology seems to exist in a social and political vacuum, without reference to the social world beyond the organization or to the economic base underpinning it. Therefore, whether one adopts a systems approach, (Etzioni, 1960), structural-functional approach (Merton, 1949), or psychological viewpoint (Maslow, 1954), a common problem with much organizational theory is that it lacks a critical edge. Many authors are concerned to describe how organizations operate rather than why they operate in the way that they do, (other than for the purpose of attaining the 'goals' of the organization itself or fulfilling its 'needs': a largely tautological argument). This is perhaps a reflection of the goals of much research in the field of management and organizations - to make the organization function more efficiently. Bearing these problems in mind, the most useful literature in this field concerns organizational deviance.

Definitions of organizational crime and deviance vary: Reiss (1978) states that organizational deviance can best be analysed through

'the study of social organization - the organizational matrix

that encompasses the deviant behaviour of persons and. . .

organizations.' (Reiss, 1978:35-6)

Organizational crime is, according to this view, distinct from other forms of individual crime. As organizations can be defined as groups which co-ordinate efforts towards the attainment of collective goals (Clinard, 1983), then explanations for such crime must go beyond individualistic notions of crime and punishment. Thus it can be argued that theories of



organizational deviance contrast with the emphasis of much 'traditional' criminology on individual pathology.

The definitive feature of formal organizations, then, is that they are established 'for the purpose of achieving certain goals' (Silverman, 1970). Deviance may result because certain internal processes produce tension for organizations to obtain goals unlawfully (Clinard, 1983). In his study of retired middle management executives, Clinard (1983) found that the 'oppressed middle' management suffered excessive pressures whilst having least decision making power. Top management was seen as responsible for setting the 'ethical tone' and so unethical conduct (organizational deviance), was most likely if top management was pressing too aggressively for profits. Such deviance was less linked to external economic (or competitive) factors than to internal 'cultural' ones. In this respect Clinard's findings point to the importance of an 'unethical subculture' in producing deviance, and in this respect they support the studies by Ditton, Henry and Mars in relation to occupational crime.

Occupational rules can therefore be seen as providing the opportunity structure for crime, as well as the justifications for the offences themselves: for profits (Braithwaite, 1984; Clinard, 1983) or as 'perks' of the job (Henry, 1978), part of the wage for the job (Mars, 1978), or part and parcel of doing the job itself (Ditton, 1977). All of these justifications are important in the implications they hold for enabling and justifying tax evasion and supplementary benefit fraud (where the latter involves working while claiming). They are subjected to further scrutiny in the criminological literature.



(c) Criminological Literature.

The most important contribution made by criminology to the topic of differential response to tax and supplementary benefit fraud is the literature relating to white-collar crime. Indeed, it could be argued that the contribution which white-collar crime made to criminology is far more significant than the contribution that criminology made to the study of white-collar crime. The very concept of white-collar crime called into question orthodox criminology in three key respects: first, it indicated the inadequacy of theories of crime which rested on notions of social, economic or cultural deprivation. Second, it raised important questions about the nature of official knowledge about crime (dependant on official statistics), in which the crimes of the middle-classes were largely invisible. Third, it drew attention to the social process of criminalization which was selectively applied (and rarely so in the case of white-collar criminals). This literature is therefore important in analysing differential response to the economic crimes of the rich (tax fraud) and the poor (benefit fraud) as it comes to terms with the problems of differential criminalization and societal response.

The review of relevant criminological literature will therefore focus on three themes:

- 1) White-collar crime
- 2) The processes of criminalization and the formation of societal responses to deviance
- 3) New Criminology and attempts to develop marxist explanations of crime.

### 1) White-Collar crime

Sutherland (1960) revealed the partiality of all theories of crime which saw law breaking as a response to deprivation (whether social, cultural or economic). In the 1940's he argued that white-collar crime (committed by persons of upper socio-economic status, in the course of their occupations), is both costly and damaging to social relations based on trust. It differs from 'ordinary' crime not because it constitutes a different form of criminal behaviour, but because of the different societal reaction it induces. He identified the use of civil rather than criminal regulation and the lack of organized public resentment as important factors in explaining why white collar crime attracts little social stigma or punishment (ibid). Clearly there is a parallel here with the contemporary treatment of U.K. tax evaders (chapter 5). Also, in focusing upon the differential application of the criminal law (according to the social status of the offender), Sutherland indicates a possible reason for differential response to welfare benefit fraudsters who do not share 'cultural homogeneity' with businessmen and the powerful, and against whom public resentment is therefore more readily organized (Sutherland, 1960) (see also the Sociology of the Mass Media in (d) below).

Sutherland's work provided the starting point for a variety of studies of white collar and occupational crime. His theory of differential association led many criminologists to examine in more depth the interactions within workplace and workgroup which offered opportunity for, or buttressed sub-cultures of, 'fiddling' (Ditton, 1977; Henry, 1978; Mars, 1982). Other criminologists shifted attention from lower class deviance to the study of the deviance of the business classes (Chambliss, 1978; Pearce, 1978; Levi, 1981; Leigh, 1982; Braithwaite, 1984; Levi, 1987).

Levi's work on long firm fraud demonstrates the extent to which the dividing line between what may be regarded as shrewd business practice and actual lawbreaking is blurred (Levi, 1981). More recently he has pointed out the practical difficulties in detecting and regulating extremely complex forms of contemporary business fraud (Levi, 1987). Leigh indicates that many of the problems involved in investigating and prosecuting cases of tax evasion at a practical level emanate from the views of those in political power that tax fraud is 'at most only quasi-criminal' (Leigh, 1982:24).

A synthesis between the approaches of workplace-oriented studies of 'fiddling' and those directing attention to issues of power and politics is evident in the work of Braithwaite (1984). In his analysis of corporate crime in the pharmaceutical industry Braithwaite examines the psychological, workgroup-based and structural factors which enable corporate crime to take place. He demonstrates that a complex set of practices and motivational rhetoric combine together in the commission, concealment and justification of crimes by individuals working within pharmaceutical companies. In the context of this thesis his work is important in three key respects.

First, it shows the close links between big business and politics in determining the regulation of illegal activities. For instance, an official of a large British pharmaceutical manufacturing company told Braithwaite that 'many British government regulations were written in their offices' (ibid:299). Although the formation of Inland Revenue counter-evasion policy may not be so directly influenced by particular business interests, undoubtedly the general interests of the business community are borne in mind when shaping investigation and prosecution policy (see Chapter 5).



Second, Braithwaite points to the failure of the criminal law (designed to combat specific harms), to deal with the routinely harmful patterns of conduct of large firms. (This argument can be related to the problem of regulating tax evasion which can be regarded as endemic, and more readily understood as a 'harmful pattern of conduct' than a one-off form of economic crime).

Third, he emphasises the role of 'negotiation' as opposed to enforcement of the law in relation to the activities of pharmaceutical companies. Although the small businessmen and individual taxpayers who form the basis of comparative study in this thesis do not have the bargaining power of the corporations studied by Braithwaite, their relations with the Revenue are far more likely to be characterised by negotiation than by strict enforcement of law. This situation contrasts sharply with the (strict) enforcement of social security law: ultimately Braithwaite's analysis points to the importance of economic power in determining modes of regulation, and whether the full force of the (criminal) law is likely to be invoked.

The pervasiveness of deviance in the business world is not in doubt: as Ralph Nader observed, 'scratch the image of any industry and unsavoury practices become visible' (ibid:12). At a lower level Henry (1978) argues that white collar crime forms part of a 'hidden economy' which pervades all areas of social life and so renders distinctions between 'honest' and 'dishonest' transactions quite meaningless. But although Henry demonstrates the reciprocal and social characteristics of many activities within the hidden economy and succeeds in showing that it does indeed form 'an everyday feature of ordinary peoples' lives', he fails to account for the fact that some hidden activities are stigmatized and not others.

For instance, a benefit claimant who cleans windows or serves in a bar 'on the side' is not treated in the same way as a self-employed businessman or moonlighting employee who does the same thing. The use of private justice (Henry, 1983) to deal with some forms of fiddling in the hidden economy is an important feature of contemporary regulation and is of particular relevance to the policy of controlling tax evasion through 'compliance' and negotiation. This contrasts with the intensely 'public' justice meted out to benefit claimants who similarly defraud the state. The focus of 'white-collar crime' literature, though valuable, needs to be supplemented by criminological literature which illustrates how justice is differentially negotiated for the powerful and for the powerless.

## 2) The processes of criminalization and formation of societal response to deviance.

Becker (1963) argued that deviance was not a quality of a particular act a person commits, but was rather a consequence of the application by others of rules and sanctions to the offender. According to this view deviance is created through the processes of interaction by which the act becomes so-labelled. This view of deviance as a relative concept lies at the heart of explanations of differential 'labelling' and societal response to tax and supplementary benefit fraud. Cicourel (1976) shows the way in which definitions of juvenile delinquency are constructed through the young person's interactions with police and juvenile officers. Officials' picture of the 'typical delinquent' can influence the administration of justice at all stages of the process, depending on whether the young person's behaviour, demeanour and social background are seen to 'fit' the delinquent stereotype. As a result a close correlation between (lower) social class



and delinquency was found. By contrast, middle class juveniles' family background, appearance and motivations were seen to correspond with definitions of inadvertent waywardness or illness rather than with perceptions of committed criminal activity. These findings have a general application to the problem of differential responses to tax and benefit fraud: tax fraudsters are less likely to conform to stereotypes of 'criminals', (in terms of social, moral and economic deprivation) and so it is likely that alternative justifications for their offences will be accepted. By contrast benefit fraudsters, whose social characteristics do conform to the 'criminal' typification, are more likely to be investigated, prosecuted and punished as straightforwardly 'criminal'.

The processes whereby justice is negotiated are also evident in the courts (Bottoms and McLean, 1976; Baldwin and McConville, 1977; Carlen, 1976; McBarnett, 1981). Negotiations not only surround the question of whether a case should go to court at all (see chapter 5), but also surround decisions on court venue, plea and representation. For instance, if the police persuade a defendant that there is a good prosecution case (or if they have obtained an admission of guilt during questioning), then defendants are likely to plead guilty, hoping for a 'discount' in sentence (Baldwin and McConville, 1977), or in the belief that the police case is too strong and so to 'get it over with' (Bottoms and McLean, 1976). Most defendants who plead guilty are young and of low socio-economic class, and the vast majority of all defendants in magistrates' courts plead guilty and are not represented by legal advisers (ibid). Studies of courts therefore illuminate the problem of negotiated justice within a context of vulnerable (often unrepresented) defendants and powerful regulatory agents: such



findings are important when analysing judicial responses to supplementary benefit fraudsters (Chapter 5(2)).

Ethnographic studies of the court process provide useful insights into the context in which differential judicial response is located. Carlen (1976) points to the complex use of abstract and situational rules by court 'performers' in order to get their own jobs done and to ensure that the 'game' of the court process continues. This analysis of rule-usage is important in illuminating the way in which individuals justify their actions to themselves and to others (and in retrospect), often in entirely different terms. This thesis will consider the justificatory rationales of fraudsters and of regulatory agents and so an understanding of the paradoxes of rule-usage by individuals is vital.

Of particular relevance to my own observations of benefit fraud cases in a magistrates' court is Carlen's analysis of the modes of control and coercion which are exhibited through judicial language, formal presentations and court rituals and through the suppression of alternative 'performances'. Chapter 5(3) will argue that many defendants accused of supplementary benefit fraud are confused, perplexed, invariably plead guilty and yet 'play the game' of the court by offering acceptable mitigations: for instance, ill-health of the defendant or relatives, previous good work record and character are often offered as mitigating factors with some success. However, the justification of 'poverty' is rarely offered for fraud and, when it is put forward, attracts magistrates' disapproval not sympathy (see Chapter 5(3)).

The other side of this argument is that those defendants who have the cultural skills to manipulate legal and extra-legal rules and so play the game effectively are likely to fare best in the theatre of the court.

Certainly, these skills are evident in the analyses of tax fraud prosecutions in chapter 5(3) below. But it is important to bear in mind the material and ideological conditions which create and reproduce these inequalities of knowledge and power.

### 3) New Criminology and marxist explanations for crime

For the purposes of this review of some relevant literature, there is insufficient space to allow for full analysis of attempts to arrive at a marxist theory of crime. Instead, the broad areas of debate which affect this thesis will be outlined. Hirst (1975) argued that crime and deviance are no more a 'scientific field for Marxism than education, the family or sport', but 'new' criminologists have been concerned to establish a 'fully social theory of deviance' committed to radical social transformation (Taylor, Walton and Young, 1973; Taylor Walton and Young, 1975). Current debates in this field derive from differing interpretations of Marxism and from differing views as to what is the best means of effecting social change: broadly the debate has been summarised as being between realists and idealists (National Deviancy Conference, 1979; Young and Lea, 1984). The idealist position sees a direct relationship between the form and operation of law and the furtherance of ruling class interests. But, as Box (1987) argues, 'doggedly' structural accounts, (for instance of the relationships between economic recession and penal policies), 'would inevitably have been sucked into the quicksand of functionalism and conspiracy theory' (ibid:197). Idealism can be seen as both naive and deterministic in presuming that individual social actors (for instance, police chiefs), merely reproduce the behaviour which capitalism requires of them (Young, 1986). At the same time realism can be seen as offering a 'flag of convenience' under which the causes of crime can once again be



explored, without, Box argues, due consideration to material circumstances. Box advocates a theoretical integration - 'something old, something new, something borrowed ...' - whereby economic conditions are considered to be important, but so are the actions of and meanings held by individuals, and the social processes of labelling and control (ibid). As indicated in the earlier discussion of penalty, the approach of Box comes closest to that adopted in this thesis.

Although left idealism is regarded as flawed, many useful insights into the 'crimes of the powerful' have been gained through straightforwardly structural analyses: these have been based upon the view that the amplification of crimes of the poor serve to conceal the (far more serious) crimes of the rich, and that the crimes of the rich merely celebrate the goals of capitalist accumulation (Pearce, 1976; Quinney, 1977; Chambliss, 1978). Although open to criticisms of economism, such literature is both useful and significant for its focus on tax evasion and other crimes of the powerful. Those engaging in such illegal activities, according to Chambliss, are

'Simply acting within both the logic and the values of America's political economy. They were operating to maximise profits, to protect their investments from competition, to expand markets, and to provide services and goods demanded by "the people". These are all the logical implications of a capitalist economy.'

(Chambliss 1978:188).

Whether or not this argument is regarded as theoretically convincing does not detract from its importance at an ideological level: the justification emanating from this argument, that tax fraud is merely the result of the



over-zealous pursuit of otherwise-normal business practice, is a powerful one in popular discourse (see Chapter 4 (1b)).

(d) The sociology of the mass media

The mass media constitute an important source of information and ideas for members of modern industrial societies (Wilkins, 1964). Although an individual's personal experience provides a useful check on the validity of media imagery and news, there is evidence that in the event of conflict between the two perceptions of 'reality', the media version holds greater sway (Golding and Middleton, 1982; Glasgow University Media Group, 1982). In order to understand media representation of the problems of tax and supplementary benefit fraud, therefore, it is necessary to understand the processes through which media images relating to welfare and taxation are selected and replicated.

News values determine whether or not a crime or social problem is reported and what perspective the coverage will adopt. News must be simple, dramatic, personalised, culturally familiar, consonant with other forms of stereotypical knowledge or unexpected (Galtung and Ruge, 1973; Ericson et.al., 1987). It follows that much white-collar crime in general (and tax fraud in particular) will not score highly in terms of news values, unless the offender is well known or 'unexpected'. This accounts for both the non-reporting of complex fraud cases and for the occasional sensational reporting of notable offenders, such as Lester Piggott. At the same time, welfare scrounger stories tap into deeper cultural themes surrounding the 'deserving and undeserving' poor (Golding and Middleton, 1982). Such themes are not merely mirrored in the media, but amplified and distorted (Cohen, 1971). This amplification of the problem of benefit

fraud, according to Golding and Middleton, may serve to undermine political consensus regarding the welfare state and ultimately help to 'dismantle' it.

But it would be simplistic to see the production of 'scrounger' imagery deriving from either organizational or political conspiracies: journalists are constantly engaged in organizational and inter-personal negotiations which render the social production of news a complicated process and one which cannot be simply reduced to a product of organizational constraints, ownership and control, or commercial journalism (Cohen and Young, 1973; Glasgow University Media Group, 1982; Erikson et.al., 1987). Amplification spirals do not emerge from a social and ideological vacuum and do not go on forever: as one journalist I interviewed observed, there comes a time when media professionals know when to put the scrounger stories 'in the cupboard'. Although Golding and Middleton's (1982) argument that welfare scroungers perform the function of 'whipping boys of the recession' is a powerful one, it does assume a normative consensus ~~throughout~~ any period of recession which would be difficult to sustain either in theory or in practice. As will be argued in Chapter 6, coverage of the 'whipping boys' of the 1970's recession is now accompanied by coverage of the dubious activities of the rich 'naughty boys' of the city amidst the recession of the 1980's.

#### (e) Social psychology.

Some literature in the field of social psychology is relevant to this thesis in illuminating attitudes towards taxation and benefits, and perceptions of those who defraud both systems. In addition, studies on

perceptions of crime seriousness also help to put into perspective public reaction to both types of fraudsters in relation to other 'criminals'.

Levi argues that 'income tax evasion is regarded far less seriously than theft or burglary or the embezzlement of the same amount' (Levi, 1982:38). In a survey conducted in Sheffield, Walker (1978) found that small-scale tax evasion was felt to be the least serious of property offences. However, larger scale tax evasions are viewed much more seriously (ibid). This evidence is supported by a study conducted in Scotland where Dean et. al. (1980) found that 66% of respondents felt most taxpayers would exploit opportunities so long as the amounts evaded were small. Respondents were morally 'neutral' regarding small-scale evasion, seeing it as neither good or bad, but moral disapproval was overwhelming in cases of very large evasions (ibid).

Most studies of attitudes towards tax evasion appear to agree that the public's belief that rates of taxation are 'too high' is an important factor (Levi, 1982) together with a lack of faith in government to use revenue efficiently:

'The predominant belief amongst our respondents (62%) that on the whole the Government does not spend taxpayers money wisely cannot help tax compliance.' (Dean, 1980:43)

Significantly, of that 62%, almost 14% cited social security as an area of dissatisfaction and waste. It is extremely difficult to assess whether factors of class, age or sex affect such attitudes, although it may be tentatively argued that attitudes towards taxation in general become more negative with age (Dean, 1980) and that members of upper socio-economic groups are more tolerant of major tax-evasion than poorer people are (Levi, 1982). The latter supports the theory put forward in much crime



seriousness research that our views on the seriousness of a particular crime is closely related to our ability to identify with the typical offender. This in turn may throw light upon the relatively lenient political and judicial response to tax evasion (see Chapter 5(3)).

In summarising research into attitudes towards taxation, Alan Lewis (1982) agrees that the notion of being overtaxed may contribute towards negative attitudes to tax and so be used as a justification for evasion. However, he argues that when respondents were invited to consider the relationship between taxation and the provision of services, the majority agreed that tax was the best way of providing for essential services (ibid). The argument that individuals pay 'too much tax' is therefore available as a justification for evasion or avoidance, yet individuals often agree they are willing to pay taxes for the common good. Here the contradictions between the ideologies of social justice and the free market minimalist state are most apparent (see chapter 3).

Lewis also indicates the importance of social and sub-cultural networks in affecting the likelihood of evasion as 'there is a sub-culture of tax evasion governed partly by normative considerations', whereby colleagues all 'play the game' so long as it does not go too far (Lewis 1982:184). Furthermore the belief that you can 'get away with' tax evasion is most common amongst those who have friends who are self employed, amongst white collar employees, and those who are college educated. The less educated and blue collar workers fear the law more, and, according to Lewis, 'perhaps for good reason'. (ibid:144).

Where attitudes towards benefit claimants are concerned Furnham (1985) suggests that

'the statements which people agreed with most concerned shame and

stigma experienced by people on social security, but... a large number of people also believed social security recipients are idle, dishonest and lack effort in trying to obtain work.'

(Furnham, 1985:25)

The inconsistencies evident in such attitudes derive from early distinctions between deserving and undeserving poor, as a legacy of the 1834 Poor Law rhetoric (Higgins, 1981). For example, disabled people and pensioners are perceived as 'deserving ' but the able-bodied poor, (the unemployed and single parent families) are not (Golding and Middleton, 1982). Such distinctions are evident in the following comments:

'The people who should n't get help are those who can't be bothered to look for work, and all those who earn too much money and have council houses.' (Age 46 male biologist)

'The people who get help are the blackies and the wogs and those who can do with out it. The old people who need it don't get it yet the blackies get all they can and more.'

(Age 70, female retired home help)'

(Golding and Middleton, 1982:170-171)

In seeking to explain the determinants of such attitudes Furnham suggests several influential factors: age, sex, income, voting behaviour and personal explanations for poverty. But the single most important factor, according to Furnham, is an individual's adherence to the Protestant Work Ethic, a factor which correlates closely with both conservatism, voting behaviour and frames views on poverty itself. For the purposes of this thesis such findings are relevant: if poverty is seen as the product of culpable, idle, feckless or inadequate individuals and families, then broader structural issues of inequality and poverty are obfuscated. At the



same time punitive responses to welfare claimants are justified, whether or not there is any evidence of abuse:

'Of all the myths of the Welfare State, stories of the work-shy and scroungers have been the least well-founded on evidence, yet they have proved the most persistent.' (Marsden and Duff, 1975:17)

Social psychology may prove useful in exploring the nature and extent of such myths and in attempting to discover the determinants of attitudes towards taxation and welfare. But in pointing to the link between high Protestant Work Ethic (P.W.E.) beliefs and negative attitudes towards claimants, Furnham and others point to a broader political question which lies beyond the scope of their discipline. Golding and Middleton go on to link P.W.E. to political, economic and ideological preconditions:

'A society so firmly anchored in an ethic of competition and reward will only with difficulty dispose of scarce resources to those conspicuously unsuccessful in a system ostensibly offering equal opportunities for all. For success to glisten seductively to the winners, the failure of poverty must display its burden of guilt and shame. While blaming the victim remains the cornerstone of our conceptions of poverty, the grinding and enduring misery of the poor is unlikely to evoke other than contempt, malign distrust or corrosive pity.' (Golding and Middleton, 1982:244).

Attitudes towards the rich and the poor, taxpayer and claimant, tax fiddler and benefit scrounger are created within a broader political, social, economic and ideological framework. This thesis will analyse the combination of ideological and material conditions which give rise to differential attitudes (and differential political and judicial responses) towards tax and benefit fraudsters.



## (6) CAMPAIGNING LITERATURE

Personal taxation and welfare provision form important constituents of social policy (see section (3) above) and therefore form the focus for a variety of interest groups who seek to influence policy. For the purposes of this brief review of relevant campaigning literature, these interest groups will be distinguished, and their contributions discussed, along the following lines:

(a) Trades Unions who represent the staff of the Inland Revenue and D.H.S.S. respectively and so articulate their members' concerns regarding the goals (and practice of collection) of personal taxation, and the operation of the welfare state.

(b) The 'Anti-Poverty' lobby who campaign on issues of both taxation and welfare provision, seeking to promote greater social and economic equality.

(c) The 'Anti-Taxation' lobby whose campaigns seek reductions in personal taxation, and whose attitude to both taxation and welfare rest on the incentives argument (discussed in section (2) above).

### (a) Trades Unions

Trades Unions representing staff in both the Inland Revenue and D.H.S.S. have produced valuable information and comment upon their respective department's policy towards fraud and investigation work. The Inland Revenue Staff Federation (I.R.S.F.) together with the Association of Inspectors of Taxes (A.I.T.) submitted a report on the black economy to the Keith Committee (Taxes, April 1981; Cmnd.8822, 1983). Through the unions' newspaper Assessment and journal Taxes, attention is often drawn to issues such as staff cutbacks, (which adversely affect the Revenue's compliance efforts) and to the broader political issues which underpin the direction

of Revenue policy in general. Such sources thus provide a good index of staff 'morale' and of changes in staff attitudes towards, for instance, tax evaders.

The Society of Civil and Public Servants (S.C.P.S.) who represent employees in the 'executive' grades of the D.H.S.S., and the Civil and Public Services Association (C.P.S.A.) who represent 'clerical' grade workers, have produced conference reports and press releases on issues of concern: for instance, the policing of welfare benefits and the activities of Specialist Claims Control Units have been topics of union conferences and publications (C.P.S.A., 1984; S.C.P.S., 1984). In the case of the unions' campaign against Special Claims Control Units, they were joined by other national organizations with interests impinging on the investigation of supplementary benefit claimants: for example, the National Council for Civil Liberties (N.C.C.L.), Child Poverty Action Group (C.P.A.G.), the Federation of Claimants' Unions and the Disability Alliance. The C.P.S.A. also produces a newspaper Red Tape which indicates areas of staff concern and reflects their reactions to policy changes.

There is a good deal of overlap between the campaigns of Revenue and D.H.S.S. staff. This joint concern often centres on the problem of differential response to tax evasion and benefit fraud, which is recognised by the unions involved. They therefore lead attempts to publicise and to combat the inequalities in departmental and political response to those who defraud the Revenue and those who defraud the D.H.S.S. (T.U.C., 1983; N.A.C.R.O., 1986).

(b) The 'Anti-Poverty' lobby

Interest groups such as the C.P.A.G. and the Low Pay Unit have published detailed analyses of the extent of poverty in contemporary



Britain, and have suggested policy changes which could alleviate the problem (Walker and Walker, eds., 1987; Ward ed., 1985; C.P.A.G./Low Pay Unit, 1986; C.P.A.G., 1987). The levels of and delivery of welfare benefits are crucial concerns for these groups and led them to form a loose coalition between themselves and local authority, voluntary and trades union groups (thereafter known as the Social Security Consortium), which was formed to lobby parliamentary and public opinion during the passage of the Social Security Bill. The Consortium's publications offer a valuable source of critical comment on the 1986 Act and an alternative agenda for social security reform (Social Security Consortium, 1986; Lister, 1987).

The 'Anti-Poverty' lobby also campaigns on specific issues, for instance, against the appalling treatment of the supplementary benefit claimants who were involved in 'Operation Major', (an anti-fraud swoop which took place in Oxford in September 1982). The subsequent analysis by Franey (1983) was jointly published by the N.C.C.L., Housing Campaign for Single People (C.H.A.R.), the C.P.A.G., Claimants' Defence Committee and National Association of Probation Officers. Once again, this demonstrates the overlapping concerns of many groups concerned with social security provision in general, and with the D.H.S.S.'s anti-fraud policy in particular .

Another issue which drew attention both from D.H.S.S. staff trades unions and the C.P.A.G. was the staffing crisis in Birmingham's social security offices in 1982, which led to strike action and the closure of 11 D.H.S.S. offices in the city from September 1982 to May 1983 (Coetzee, 1983; Ward, 1985; McKnight, 1985). Campaigning literature which focusses on the problems of staff cutbacks in the D.H.S.S., the apparent policy emphasis on efficiency and yet overwhelming sense of crisis in D.H.S.S. offices (in



relation to the 'efficient' payment of supplementary benefit in particular), is of great value in illustrating some elements of the contemporary crisis of the welfare state: the crisis of management as well as of ideology.

(c) The 'Anti-Taxation' lobby.

An alternative agenda is presented by interest groups who conceive their primary goal as the pursuit of profit, rather than the abolition of poverty. Groups such as the Confederation of British Industry, the National Federation of the Self-Employed, the Institute of Directors and the Institute of Economic Affairs frequently campaign ~~against~~ what they see as 'high' rates of tax and 'high' rates of welfare benefits. The issues of both personal tax and welfare provision come together in the articulation of the incentives argument which is now seen as a key feature of New Right discourse (section (3) above). But ambivalence to state welfare provision (lest it prove an incentive to idleness), and simultaneous hostility to paying progressive personal taxes (lest it prove a disincentive to wealth creation), has long been a feature of the 'Old Right' rhetoric of these interest groups (I.E.A., 1968; I.E.A., 1977).

The fallacy of the latter half of this argument is evident in recent academic work on the 'income effect' which may outweigh the 'incentives effect' for the higher income-earner. Christopher Huhne (Guardian, 24.2.88) argues, on the basis of research commissioned by the Treasury from Stirling University that tax cuts can create the 'income effect' whereby the beneficiary of the tax cut feels richer and 'lazier'. Hence tax cuts can act as a disincentive to effort! But, he argues, the 'incentives effect' created by a reduction in higher marginal rates of tax probably does encourage higher earnings to some extent. Huhne thus argues that most economic research suggests that these two effects 'just about cancel out'

each other. But, importantly, he uses the Stirling research to argue that 'most people simply cannot increase their earnings. Their jobs are such that they are not paid extra for more work' (ibid). The pronouncements of the Anti-Tax lobby are thus premised on dubious assumptions concerning the effects of personal tax on the efforts of the taxpayer. Similarly, their assertions regarding the sapping effects of welfare on claimants' will to work are by no means proven (see section (2) above for a full discussion of the incentives debate). Nonetheless, their arguments are still powerful in popular and political ideology (see section (3.3) above). Groups such as the Confederation of British Industry, the Institute of Directors and National Federation of the Self-Employed are more likely to attract 'official' recognition than are the groups who represent the poor and the powerless. For example, the voices of the business community continue to dominate discourses about taxation and public expenditure, particularly on high-profile occasions, such as Budget Day.

It is important, then, to remember that a review of campaigning 'literature' must also take account of non-published sources of comment relating to tax and welfare. This thesis will therefore also analyse discourses on taxation and welfare which are generated and replicated by means other than published academic work. An analysis of the activities, speeches and writings of 'campaigners' is therefore a crucial element in explaining why some alternative discourses (for instance those of the Anti-Poverty lobby), fail to gain power and credence in the public rhetoric, whereas others (for instance the Anti-Tax lobby), do have a significant influence upon policy at particular times. Such an explanation will involve exploring the nature of official, political and popular discourse (see Chapter 6).



## CHAPTER 1 : SUMMARY.

Tax and benefit fraud occur within the political and economic context of a state which demands personal taxation (direct and indirect) from all citizens liable to pay, and which pays benefits (contributory and means tested) to those eligible to receive them. Ideologies relating to the work ethic, work incentives, the free market system, individualism and collectivism in welfare provision are all evident within literature on tax and welfare, though their relative influence depends upon specific historical, political and material preconditions. The foregoing review of literature has attempted to disentangle some of these issues and ideological positions by breaking down the topic into discrete disciplines and areas of academic and campaigning interest.

Invariably many rigid disciplinary and thematic distinctions are misleading because complex 'knowledges' of tax and welfare have been compartmentalized in order to give a clearer understanding of the contributions made by economists, lawyers, sociologists and pressure groups. Nonetheless, these distinctions do represent divisions which have not only appeared in academic discourses on taxation and welfare, but have also had political effects. For instance, economists have constituted the 'problem' of tax and benefit fraud in terms of key issues such as:

(1) The technical and theoretical difficulties involved in measuring the scale and significance of the black economy (O'Higgins, 1981).

(2) The problem of allegedly 'high' rates of taxation which are seen to be acting as a disincentive to effort, whilst allegedly 'high' rates of welfare payments are seen as an incentive to dependency and idleness (I.E.A., 1979; Minford, 1983).



(3) The alleged redistribution of income (and wealth) which has allegedly taken place as a result of the progressive personal taxation of the better off so financing generous welfare payments to the poor. (I.E.A., 1979; Lawson, 1977).

Clearly 'the problem' of tax and benefit fraud can be represented very differently from an alternative political perspective, for instance:

(1) An alternative analysis of the black economy may focus on the hidden modes of exchange and reciprocal relationships within it, and on the differential meanings which can be attributed to some black economy transactions (Gershury and Pahl, 1980; Henry, 1978).

(2) The incentives debate can itself be explored as an example of the way in which the values of competition and work are ideologically constructed and maintained: such ideologies necessarily favour the taxpayer whilst penalising the workless (Marsden, 1982; Roll, 1983).

(3) The notion of a post-war redistribution of income and wealth, from the rich to the poor, can be challenged empirically (Byrne, 1987) and can, alternatively, be seen as a thinly veiled attempt to conceal persistent economic and social inequality in modern Britain (Kincaid, 1975; Quinney, 1977). Progressive and penally 'high' rates of taxation are thus part of the mythology of redistribution, which once more evokes sympathy for the hard-pressed taxpayer and contempt for the poor (who, despite this alleged redistribution, are still 'with us').

Finally, and to conclude this review of the relevant literature I will now summarise the common themes which have emerged, the clusters of ideas from within which dominant discourses emerge to triumph, and alternative discourses emerge to challenge them. These themes will inform the analyses of differential response to tax and supplementary benefit fraud in this

thesis. They are summarised, in relation to the areas of academic/campaigning concern under which they were discussed, as follows:

#### (1) OFFICIAL PUBLICATIONS

Tax: the Revenue's official rationale for seeking the 'compliance' of the taxpayer is pragmatism. The latent rationale, however, concerns the desire to 'spare the taxpayer's feelings'. This is rooted in the view of taxpayer as a 'giver' to the state.

Supplementary benefit: the D.H.S.S.'s estimates of the scale of (and threat posed by) fraud are politically and ideologically constructed, but have important effects in shaping public perceptions of benefit 'scroungers' in particular, and benefit claimants in general. Official D.H.S.S. discourse is currently dominant, despite evidence of Departmental inefficiency and massive under-claiming of welfare benefits.

#### (2) ECONOMICS LITERATURE

The black economy: economists are largely concerned to surmount the technicalities of measuring the black economy. Such analyses fail to regard tax evasion as a legal issue. They also ignore differential response to taxpayers and to supplementary benefit claimants who participate in such activities.

The incentives debate: arguments alleging the disincentive effects of high rates of personal tax and of welfare benefit payments are ideologically constructed and maintained. In practice this serves to justify tax evasion and to buttress the 'scrounger' mythology.

The post-war redistribution of income and wealth: the myth of redistribution through progressive tax presents the taxpayer as 'giver' to the state and benefit claimant as 'taker'. It thus serves an ideological purpose of justifying fiddles by the hard-pressed taxpayer, whilst



effectively discrediting the major justification for benefit fraud - poverty.

Growth versus social justice: economists present these policy goals as mutually exclusive. Tax evaders and benefit fraudsters thus appear polarized examples of the worst outcomes of these competing ideologies. This foreclosure in economic discourse fails to recognise the complexities and contradictions which emerge in a mixed economy and which render differential response to tax and benefit fraud possible.

### (3) SOCIAL POLICY ISSUES

The development of the welfare state: the welfare state is based upon fundamental contradictions: between the ideologies of individualism and social justice, the principles of universalism and selectivity in welfare provision, the ideologies of pauperism and poverty, the post-war collective spirit of 'fair shares' and the social cleavage created by distinguishing worker from claimant, and the long-held distinctions between the 'deserving' and 'undeserving' poor.

Penalty and welfare: the role of less eligibility, the 'wage-stop' and recent work tests in the maintenance of the work ethic, and the stigmatising of the workless and unproductive poor.

The thesis and antithesis of the New Right: when translated into policy, the ideology of the New Right accentuates differential responses to tax and benefit fraud in its emphasis on individualism, wealth creation, the minimal state and belief in market forces as the sole desired form of economic regulation. Discourses based on the New Right thesis are successfully invoked to justify (or at least excuse) tax evasion and to present the welfare state as creating individual and financial dependency.



#### (4) LEGAL ISSUES

Defrauding the public purse: economic crime by means of tax and supplementary fraud have the same 'victim' - the public purse.

Crimes of 'omission' and 'commission': this distinction fails to take account of the essential similarities in offences arising from failure to declare income for tax purposes and failure to declare income for the assessment of benefit.

'Strict Liability' or 'Mens Rea': the Revenue have to prove intent to defraud in order to mount a fraud prosecution, but the D.H.S.S. merely have to show that a false statement has been knowingly made. The form of the law thus facilitates differential judicial response to these offences.

'Justice' for the rich and the poor: the complexity of tax law ensures loopholes and delay, both of which can be exploited by legal advisers. By contrast the 'backwater' of welfare law enables less ambiguity and swift 'justice'.

#### (5) SOCIOLOGICAL LITERATURE

Ideologies of social inequality form an important basis for analysing both tax and benefit fraudsters' rhetorics of justification. They are also vital in understanding the broader problem of differential political, judicial and public response.

Opportunity structures: the opportunities and means to fiddle are shaped by the material conditions of, and relationships within, the fraudsters' workplace/social milieu. But, these are, in turn, determined by structural factors - class, status and power.

Differential criminalization is a theme which will be evident throughout this thesis as it seeks to explain the differential responses of regulatory

agents, judiciary and popular rhetoric to those who fiddle taxes and those who fiddle welfare benefits.

Rhetorics of motivation: fraudsters and regulatory agents use a variety of (contradictory) justifications through which they seek to justify their actions, to themselves and to others. An analysis of the fraudsters' vocabularies of motive, and the differential meanings which are attributed to them, will be central to the analysis of differential response to the two types of fraud.

The 'scrounger' mythology: underlying all responses to tax and benefit fraud are popular images of the deserving and the undeserving poor, and of the taxpayer as victim (of Revenue harassment). It is necessary to examine the material and ideological preconditions which enable the popular representations of benefit fraudsters as 'folk devils' and tax evaders as folk heroes.

#### (6) CAMPAIGNING LITERATURE

In addition to articulating many of the debates already discussed, campaigning literature raises the problem of the possibility of influencing policy change in relation to personal taxation and the welfare state. This involves analysing the vocabularies of discourses which are successful in policy terms, and those which fail to displace 'official' discourses.

I will utilize these overlapping themes (evident in a variety of academic and non-academic literature), to inform the an analysis of:-

Differential opportunities for tax and supplementary benefit fraud

(Chapter 2)

'Commonsense' definitions of the problem of differential response to tax and benefit fraud, and the theoretical approach adopted to analyse the problem (Chapter 3)

The techniques used by tax and benefit fraudsters and the rhetorics of motive which are offered to justify their actions (Chapter 4)

The official and unofficial rationales of the Revenue and D.H.S.S. investigation policies and investigatory techniques which put them into practice. (Chapter 5)

The outcome of investigation - policy and practice in deciding on penalties and prosecution (Chapter 5)

The combinations of historical, ideological, political and material conditions which allow differential responses to tax and benefit fraud (Chapters 3 and 6).



## CHAPTER 2

### DIFFERENTIAL PRECONDITIONS FOR TAX AND SUPPLEMENTARY BENEFIT FRAUD

Analysis of the empirical data obtained during my investigation of the differential response to tax and supplementary benefit fraud aims to analyse and explain three key aspects of differential response. These are:

(1)The different experiences of taxpayers and claimants: this refers both to their knowledge (and techniques) of fiddling, and to their relations with regulatory agents.

(2)The investigation policies officially pursued by the Inland Revenue and D.H.S.S. respectively, the practices used by the departmental staff who implement them, and vocabularies of motive invoked to justify both policy and practice.

(3)The different responses to the problems of tax and benefit fraud which are evident in popular and official discourses: for instance, in media imagery and judicial comments about tax and welfare fraud.

These three areas will form the focus of the analyses in Chapters 4 and 5 of the thesis. Before such an analysis can take place it is necessary to locate the problem of differential treatment within a specific historical, political, administrative and legal framework. In order to describe these frameworks, the chapter will be organised under the following headings:

(a)Differential histories of tax and welfare.

(b)Legal and administrative preconditions.

(c)Differential opportunity structures.

To conclude the chapter the differential opportunities which exist to engage in forms of tax and benefit fraud, and the consequent differences

in the likelihood of investigation, apprehension and punishment, will be summarised.

#### (a) Differential histories

##### (1) Taxation

Direct taxation in Britain has a very spasmodic history. Until the eighteenth century taxation remained indirect because of the vast problems involved in implementing any system of direct taxation. But in 1799 Pitt imposed income tax to raise revenue to finance the costs of the French Wars. Although there was a reluctant acceptance of income tax in time of war, pressure to repeal the 1806 Income Tax Act succeeded once the war had ended. Nonetheless, a precedent had been set and income tax was raised again to finance the Crimean War (Sabine, 1966).

Income tax continued under both Gladstone and Disraeli - even during the heyday of 'laissez-faire'- and so became an integral part of the fiscal system. By the 1880's a shift had begun towards using taxation as a social instrument: in 1885 Joseph Chamberlain's radical programme argued in favour of a form of state socialism which used taxation as a means of social reform. Importantly, it was argued that this should be on a graduated scale. Although Gladstone considered such graduation 'tended to communism' (ibid:125), a movement towards some redistribution in income had commenced. But arguments still raged over the costs of administering a graduated income tax system as against its 'yield' in cash terms, and also over the dangers of capital 'emigrating' in the face of super-tax. These arguments are still evoked a century later, (despite the fact that the greatest emigration of capital in recent times was not a result of

increased taxation but as a consequence of the removal of exchange controls in 1979).

Sabine usefully refers to the 'old' and 'new' conceptions of taxation which, at the beginning of the twentieth century, were represented in the Select Committee on Income Tax (the Dilke Committee) in 1906. The old conception of tax emphasised what was seen as a

'harsh inquisitorial system eager to strengthen its powers by assuming the right to interrogate taxpayers, examine bank accounts and insist on returns of total income in all cases.'

This contrasted with 'the new idea of a tax designed to serve public welfare' (Sabine, 1966:144). These differing views of 'progressive' taxation lie at the heart of the contradictions between the ideologies of liberalism and social justice (see Chapter 3).

Lloyd George's 'People's Budget' adopted the 'new' approach to the role of personal taxation, but in his budget speech he used irony to invoke an early justification for raising taxes - war:

'This is a War Budget. It is for raising money to wage implacable warfare against poverty and squalidness.' (Fraser, 1973)

Measures adopted to this end included increasing indirect taxation and death duties and, importantly, levying income tax on a progressive scale. Super-tax was to be levied at sixpence extra for all income over £3,000, and Land Duty and Capital Gains Tax were also introduced (ibid). The latter measures in particular gave rise to the rejection of the budget by the House of Lords and, subsequently, to a constitutional crisis.

In addition to the introduction of progressive rates of tax, the People's Budget was also important for its incorporation of manual wage-earners into the orbit of taxation. This meant that taxation policy became



of personal relevance to all sections of society. Nonetheless, doubts had been expressed concerning the problems of implementing a redistributive tax system, particularly in view of the opportunities that existed for evasion. Sabine (1966) quotes Asquith, who was concerned that

'facilities for fraud and concealment and illegitimate exchange of wealth as between man and man were so great, that an income tax which would operate fairly and justly between all classes of the community was an ideal which could never be fully attained.'

(ibid)

But, according to Sabine, no real attempt was made to legislate against evasion prior to the First World War, as this was not perceived as either worthwhile or practical. However, after the war the Royal Commission on Income Tax (1920) took a firmer stance against evasion, although many of its recommendations were only hesitantly being implemented 30 years later, and some still remain shelved as too 'strict' (Sabine, 1966:184).

The problems of avoidance and evasion of taxes took a back seat in 1939 when the most prominent concern became the efficient collection of taxes to finance the Second World War. To ease the practical burden of collection, the Pay-as-You-Earn (P.A.Y.E.) system was suggested in 1943 and put into effect in 1945. The 1945 Income Tax Act thus laid the foundations of the current Inland Revenue organization and the P.A.Y.E. system by which employees still pay their taxes. Critics had argued that the new system would act as a disincentive to workers. In his defence of P.A.Y.E. in parliament Lyttleton epitomized the immediate post-war attitude to tax - that it came 'just a much from the tool room as the Boardroom' (ibid). The galvanizing effects of war on social policy are evident in such

arguments which stress that in peace, as in war, all citizens were 'in it together' (Fraser, 1973; Marwick, 1965).

The era of post-war reconstruction was characterised by consensus between the major British political parties in relation to fiscal policy. This 'Butskellism' (Mishra, 1984) continued into the 1950's. But from 1955 onwards the conservative government under MacMillan began to shift taxation policy in favour of the well-off: for instance, concessions were made to surtax payers in the 1957 budget, and the pre-election budget of 1959 was a 'give away' package for the better-off (Sabine, 1966). In addition, economic growth and full employment enabled some to argue that poverty was all but eliminated, and that economic prosperity was ensured for the future (Mishra, 1984). Such prosperity clearly encouraged the pursuit of still greater wealth, sometimes by dubious means: it is notable then that this period also saw the need for unprecedented anti-avoidance measures against 'dividend stripping', 'bond washing' and other such loopholes for tax avoidance which the 1960 budget attempted to close up (British Tax Review, July 1960).

The next notable change in British taxation came under the Labour Government which in 1965 introduced Capital Gains Tax and Corporation Tax, returning briefly to the redistributive goals of the 1945 administration. However, it is unlikely that such measures, or more recent ones (for example, Capital Transfer Tax), have succeeded in shifting either income or wealth from the rich to the poor. There has been no redistribution of income from the richer half of income-earners to the poorer half since 1949 (Social Trends No. 11, 1981). Although wealth has been redistributed differently amongst the richer 50% of the population, there is no evidence of a redistribution of wealth to the poorer half



(Reid, 1981). Recent evidence suggests that the gap between rich and poor has widened since 1979 (Byrne, 1987). Yet the myth of redistribution (see Chapter 1 (3) above) remains ideologically powerful, and serves as an important justification for the allied myth of the over-taxed or 'harassed' taxpayer. This image, in turn, can be successfully used as a justification for fiddling taxes (see Chapter 4(1b)).

It is significant that in terms of social policy it is the issue of taxation which has dominated the 'official' political agenda since the 1970's. Recent attempts to revive the 'war against poverty', (for instance, during the 1987 general election campaign), signally failed (C.P.A.G., 1987). The ascendancy of New Right ideology has stimulated fundamental shifts in political emphasis which directly impinge upon how taxation (and poverty) is viewed. Such changes are evident in shifts from the notion of collective to individual responsibility, from state to market regulation and from the goal of personal freedom 'to be' towards an alternative economic freedom 'to get'. Taken together, these elements in New Right politics have prioritized reductions in personal taxation, on the grounds of creating incentives, increasing personal economic freedom (freedom of choice in how to spend more disposable income), and thus undermining state regulation by the increase of market regulation.

The results of such ideological principles when put into practice have been paradoxical: while officially espousing tax reductions and financial incentives, Thatcher governments have actually increased the burden of personal taxation for the lowest paid citizens (Esam et.al, 1985; Byrne, 1987). Financial incentives for the better-off (allegedly promoted by tax cuts), have produced a credit-driven consumer boom rather than a sound economic recovery. There is thus evidence that for the well-off the



personal contentment of the 'income effect' may cancel out the alleged effort-inducing 'incentive effect' of reduced tax (see Chapter 1(2) above). At the same time ideologies of 'freedom' (economic and individual) have been accompanied by dramatic trends towards centralized government control, for example in the areas of education and local government policy. That such contradictions can, for the present, be contained within the framework of New Right ideology may be regarded as a strength and a factor contributing to its ideological dominance (Levitas, 1986). It is in the context of such contradictions that current attitudes towards taxation must be located, although elements deriving from the history of taxation (outlined above) can also be identified as important in framing views on the desirability and goals of personal tax. The most relevant historical themes can be summarised as follows:

(1) The old maxim, that there are only two certainties in life - death and taxation, demonstrates the traditional British hatred of taxation. This attitude is influential in both forming vocabularies of motive for those who fiddle their taxes, and in ensuring that such justifications are popularly accepted (see Chapter 4(1b) on the 'Intolerable Inquisition' as a justification for tax fraud).

(2) Debates concerning the ethics and the effectiveness of progressive taxation have long included arguments that such measures either 'tend to communism' or that progressive taxation is counter-productive in depriving the successful of financial incentives to create still more wealth. These arguments offer justifications for tax fraud on grounds of penally high rates of marginal tax, and the repressive nature (in practical terms), of any system of progressive tax.

(3) When taxation is levied for war or, (in popular rhetoric) for 'defence', it may be regarded as disagreeable but (historically) is likely to be tolerated. The 'war' spirit has been invoked to justify progressive taxation to finance social reform (for instance, by Lloyd George and later by Beveridge). But such justifications are only successful so long as 'fair shares' are seen to be 'won'. The winning of consent for social reform through progressive taxation can be seen as a process of struggle against deeply held traditional resistance to personal taxation, and also as a struggle against the (capital accumulative) logic of the British society within which the struggle takes place. The outcome of the struggle is determined by a combination of economic, political and ideological preconditions: in 1945 these conditions enabled tax and National Insurance financed social reforms to proceed (although in modified, compromised form - see (ii) below). But any 'consensus' on tax and welfare had dissipated by the 1970's, in the face of economic recession and ideological attack (from the left, and the 'New' right) (see Chapters 3(b) and 6).

#### (ii) Supplementary Benefits

Supplementary benefit is only one form of cash benefit distributed through the Department of Health and Social Security. The department pays both contributory benefits (such as retirement pensions), which are paid out if sufficient National Insurance contributions have been paid in by the claimant, and non-contributory benefits (such as Family Income Supplement (F.I.S) and supplementary benefit), which do not depend on contributions, but are means-tested. Despite these formal distinctions, most supplementary benefit claimants refer to themselves as being 'on social security'. In February 1987 there were over 5 million supplementary benefit



claimants and the total number dependant on that benefit was 8,350,000. In

1948 one in thirty-three of the population was dependent on the earlier 'safety net' of National Assistance (C.P.A.G., 1987). A historical analysis may illuminate possible reasons for the increasing number of people forced to depend on 'safety net' (poverty line) state support, and will also indicate how attitudes towards state welfare (and its recipients) have developed. In order to understand the experiences of supplementary benefit claimants it is therefore necessary to examine the history of attempts to alleviate poverty in Britain.

The sixteenth century marked the beginning of a transition from a local to a national economy, which in turn involved the intervention of central government in economic affairs (Marsh, 1965). For the first time there was a recognition (for instance, in statutes of 1531 and 1563), that society had a responsibility to support those 'aged poor and impotent persons' who were unable to support themselves (ibid). The regulatory agents used to implement this policy locally were Justices of the Peace, and the focus of responsibility (in the absence of relatives to support the destitute), was the parish (Marsh, 1965; Fraser, 1973). These provisions were codified in the 1601 Poor Law Act which, importantly, established a nationwide system of poor relief for children, the destitute, infirm, unemployed and the 'workshy' (ibid). This emphasis upon the role of the parish as statutory provider for the destitute remained until 1948.

The social upheaval brought about by the processes of industrialization and urbanization led to a dramatic increase in 'pauperism' and by the end of the eighteenth century the Elizabethan system of poor-relief was over-stretched (Fraser, 1973). In 1795 magistrates in Berkshire (meeting at Speenhamland), attempted to alleviate



poverty by supplementing the wages of low-paid workers to a level which was linked to both the price of bread and family size. The Speenhamland system thus aimed to help those who worked for low wages in addition to providing relief for the unemployed. Critics argued that the system was too costly for the ratepayer, encouraged dependancy amongst the poor and, according to economist Ricardo, was 'self-defeating' (Fraser, 1973). These criticisms were reinforced by the ideas of Thomas Malthus who argued (in his 'Essay on Principles of Population', 1798), that population growth would soon outstrip the means of subsistence: this theory contributed to a hardening of attitudes towards the poor in general, and towards large families in particular.

The findings of the Royal Commission on the Poor Law, (set up in 1832 as a consequence of such criticisms of poor relief), exemplifies this shift in attitudes. For instance, Checkland, one of the authors of the Commission's final report, observed that

'One of the most encouraging of the results of our enquiry . . .  
is the degree to which the existing pauperism arises from fraud,  
indolence or improvidence.' (quoted in Fraser, 1973.)

The implicit distinction between the 'deserving' and 'undeserving' poor became clearer as the 'idle' able-bodied unemployed were distinguished in the provisions of the Poor Law Amendment Act of 1834, a watershed in terms of attitudes towards poverty and unemployment. The 'New' Poor Law was based on the twin principles of less eligibility and the workhouse test (Marshall, 1970; Fraser, 1973; Donnison, 1982). According to this New Poor Law, 'every penny bestowed that tends to render the condition of the pauper more eligible than that of the independent worker, is a bounty on indolence and vice' (Fraser, 1973).

The assumptions underlying the principle of less eligibility are that the test of the (inferior) conditions of workhouse incarceration would act as a deterrent to pauperism, and that pauperism is wilful and so could be deterred. The Assistant Commissioners had indicated how this deterrence should be effected:

'Our intention is to make the workhouse as like a prison as possible. . . our objective is to establish a discipline therein so severe and repulsive as to make them a terror to the poor and prevent entering.' (ibid)

This discipline involved appalling physical conditions and diet, separation of the sexes, separation of families and total confinement within the workhouse walls. But the premise that pauperism was wilful and hence deterable by means of the workhouse test was proved false: the population of these 'bastilles' for the poor increased from 78,500 in 1838 to 197,180 in 1843, evidence in itself of the scale and depth of the structural problem of poverty in Britain during this period (Fraser, 1973).

One of the main aims of the Poor Law Amendment Act of 1834 was to instil the factory discipline demanded by an industrial economy (Rusche and Kirchheimer, 1939). This may explain why, between 1834 and the introduction of Family Income Supplement in 1970, the working poor were denied financial support from the state. But, according to Jordan (1974) this return in 1970 to a modern equivalent of Speenhamland was due to an economic rather than social imperative: 'some wages were simply not enough to allow those who received them to eat properly'(ibid:45). But the effect of such state intervention, as in the past, can be seen as the creation of 'a new class of subsidized paupers', rather than guarantee of a minimum



income for all: the problem of low pay was not tackled at its (economic) origin (Jordan, 1974).

The 1834 Poor Law left an important legacy: for instance, in differing perceptions of the deserving and undeserving poor, the notion of individual culpability for pauperism (the result of 'failed' individuals), and the gearing of welfare benefits to the requirements of an industrial economy. Yet the failure of the 1834 Poor Law was demonstrated both in rising workhouse populations on the one hand, and a growing philanthropic concern for the poor on the other. Traditionally, the causes of pauperism had been seen in terms of individual personal failure, but by the mid nineteenth century it was becoming clear that not all members of society could make good under a laissez-faire economy. Charities sprang up to cater for the powerless - from stray dogs to fallen women and from orphans to drunks. But the ethos of the Charity Organization Society formed in 1869 derived from a combination of private charity and the inculcation of the positive value of self-help (Marshall, 1965; Fraser, 1973). The pioneering social surveys conducted by Mayhew, Booth and Rowntree also served to demonstrate the nature and extent of poverty in Britain in the latter half of the nineteenth century, and the need for state intervention to mitigate the worst effects of 'laissez-faire' political economy.

Changes in attitudes towards poverty are thus, historically, linked with the political shift from laissez-faire to positive state intervention. The resulting emphasis on 'collective' social provision contributed to the gradual break-up of the Poor Law, as under the 'Liberal Reforms' categories of people were removed from dependence on poor relief: for example through the National Insurance Act (1911) which gave contributory benefits to the



sick and unemployed, and was to be financed by means of the redistributive taxation advocated in the 'People's Budget'. In addition, the 'moral element' involved in the payment of poor relief had been removed as, for the time being, no benefit could be withheld due to voluntary unemployment (Fraser, 1973). This provides a glaring comparison with current policy of reducing or suspending benefits in cases of 'voluntary unemployment', 'misconduct' or refusal to take a job (Lynes, 1985). The moral concern to maintain work-incentives and combat idleness are not merely of historical interest as such concerns are increasingly evident in New Right social policy. The Thatcher government is currently considering the introduction of 'workfare' (the workhouse test without incarceration), and compulsory 'training' for adults who wish to continue to receive state support (Loney, 1987). Such measures serve to further industrial discipline, keep wages low and claimants 'less eligible' than lowest-paid workers and to regulate (and punish) the poor (Garland, 1985).

Despite the apparent progressive social goals of the Liberal Reforms, critics such as Keir Hardie argued that the Liberal government was really saying 'We shall not uproot the cause of poverty but will give you a porous plaster to cover the disease that poverty causes' (Fraser, 1973:152). Such criticisms are still articulated in relation to the failure of contemporary governments to tackle the structural problem of poverty (Low Pay Unit/C.P.A.G., 1986; C.P.A.G., 1987).

The experience of 'total war' further shifted public perceptions of poverty: by the 1930's poverty was less likely to be seen as caused by personal failing and the public was acutely aware of the misery it caused (Deacon and Bradshaw, 1983). This gave added impetus to the movement towards the universal provision of social welfare benefits, and by the end

of the Second World War the 'Dunkirk spirit' and unity forced by the war led to the slogan 'fair shares' (Titmuss, 1950). As discussed above, attitudes towards personal tax had softened in order that the 'fair shares' could be distributed, in part through taxation and in part through the contribution principle. The Beveridge Report Social Insurance established the principle that the state should provide 'in return for contributions benefits up to subsistence level, as of right and without a means test' (Cmnd 6404, 1942). The rhetoric of war was invoked against the enemies of Want, Disease, Ignorance, Idleness and Squalor at home (ibid).

As in the history of taxation, changes in provision for the poor were only secured through struggle and through compromise. In the case of welfare provision (as in the case of personal tax), the rhetoric of the incentives argument was prominent in criticisms of the Beveridge Report. The consensus which emerged was arrived at partly because advocates of work-incentives for the poor were appeased: elements of the means test were retained in the form of National Assistance which was payable to those who did not satisfy contribution requirements. Furthermore, what is dubbed the 'Welfare State' can be seen as 'a judicious balance between the claims of various interests and resolving them in the name of One Nation' (Deakin, 1987:61). The goals of Beveridge, according to Deakin, were linked to a sense of common purpose following the experience of war, but did not effect any fundamental shift in power between classes or between genders.

The same rhetoric of crisis was invoked to justify both 'redistributive' taxation and Beveridge's 'War' against the five 'enemies' he associated with poverty. In both cases the motivational rhetorics drew upon ideologies of social justice, yet failed to accomplish their stated goal of a fundamental redistribution of income (or wealth). Deakin (1987)



gives an illuminating summary of post-war attitudes towards the welfare state in which he substitutes the notion of 'consensus' for that of 'grumbling acquiescence' (ibid:61). The same can be said of attitudes towards personal taxation. Differential responses to taxpayers and benefit claimants must therefore be seen against this historical background, apparently characterized by the rhetoric of social justice, but effectively marked by resistance to putting such rhetoric into practice. What progressive measures that did emerge can be seen as the result of 'co-incidence rather than conjunction of views' and political interests (ibid). The basic contradictions between the ideologies of social justice and individualism were therefore incorporated within a welfare state which paid lip-service to the notion of a guaranteed social minimum (as of right) through national insurance, yet retained the deterrent of a less eligible benefit (National Assistance) which was paid by proving need in a means-test (see Chapter 3).

These contradictions enable differential responses to different categories of claimants and so encourage distinctions between the deserving and undeserving poor. The 1966 Ministry of Social Security Act replaced 'National Assistance' with supplementary benefit. The change was in part a symbolic attempt to reduce the social stigma attached to claiming National Assistance. But the payment of benefit was still means-tested, and supplementary benefit levels were set in line with its perceived role as the 'safety net' for the welfare state (just as National Assistance had been). For the purposes of this thesis it is, therefore, essential to examine two dimensions of differential response:

- 1) the differential responses to supplementary benefit claimants as a less eligible claiming group within the provisions of the welfare state. This



involves historical distinctions between the deserving and undeserving poor and the contradictions which have emerged as a result of the opposing principles of National Insurance and means-testing.

2) the differential response to those who are seen to take from the state - ie. supplementary benefit claimants - and those who are seen to give to the state - ie. the taxpayers - and, in so doing, are seen to finance state welfare.

(b) LEGAL AND ADMINISTRATIVE PRECONDITIONS

(i) Taxation

British taxpayers usually pay their personal taxes in one to two ways: first, employees pay tax under Schedule E, through the P.A.Y.E. system. Second, the self-employed and small businesses pay tax under Schedule D, direct to the Collector of Taxes (Inland Revenue leaflet I.R. 28, 1982). The administrative regulations concerning the collection of personal tax were consolidated in the Taxes Management Act 1970 which, together with the current Finance Acts, constitute the statutory basis for tax collection. Case law dating back to 1874 (Lewis, 1977) also influences the drafting of tax statutes, but may lead to difficulties (and loopholes) in the administration of the Taxes Acts: for instance, under the Taxes Management Act 'profits or gains' from a 'trade' are chargeable to tax under Case I of Schedule D, but nowhere is the term 'trade' adequately defined. As Lord Denning remarked,

'Try as you will, the word "trade" is one of those common English words which do not lend themselves readily to definition but which all of us think we understand well enough. We can recognise a "trade" when we see it . . . but we are hard pressed to define it.'  
(Denning quoted in Lewis, 1977:19).

Furthermore, such difficulties may serve to complicate issues relating to the evasion of tax, giving rise to debates over technicalities and 'loopholes'. Therefore, as the Keith Committee Report noted, there are problems in establishing if anything illegal has taken place and, thereafter, in explaining such technicalities to judges and juries (Cmd. 8822, 1983) (see Chapter 5 (2) and (3) below).

All taxpayers have statutory obligations to declare all income they receive, from whatever sources (S1. Taxes Management Act, 1970) and to submit periodic returns of income (S7.). In the case of self-employed taxpayers and companies, returns must be completed annually, based upon the profits of trading during the previous year (Inland Revenue leaflet 28, 1982). Failure to submit accounts may result in financial penalties (see Chapter 5(3)). Although employees have to declare all the income they receive, tax returns are rarely issued to P.A.Y.E. taxpayers on an annual basis. The Keith Committee recommended that all taxpayers should complete tax returns at least once every 3 years, but this recommendation has not been implemented (Cmnd 8822, 1983). It is therefore commonplace for P.A.Y.E. taxpayers to submit a return only once in 5 or 6 years. The obligation thus rests upon the taxpayer to inform the Revenue of any changes in circumstances.

For both trading and non-trading taxpayers it is an offence to make an incorrect statement or submit incorrect accounts (S95(1), Taxes Management Act, 1970). But the Taxes Acts recognise 2 types of offences.

(1) Minor regulatory offences: failure to comply in due time, or instances of negligence.

(2) Major offences: substantial failure to comply, or doing something negligent or fraudulent in the course of complying (Cmnd. 8822, 1983:17.1). But once again the language of tax law may lead to difficulties in defining, for instance, the term 'wilful default':

'Wilful default is understood as 'near fraud' in the sense of deliberate or reckless failure to give proper attention to the requirements of tax law . . . intention not to comply.'

(Cmnd 8822, 1983:17.1).



The term 'evasion' does not itself appear in offences against tax law although to understate profits, submit incorrect accounts, complete incorrect tax returns or to omit or understate sources of income will all lead to evasion of income tax. Tax offences are defined in relation to the taxpayers' duty to declare all income to the Inland Revenue: 'evasion' therefore 'denotes all those activities which are responsible for a person not paying the tax that the existing law charges on his income' (Leigh, 1982:64). However, there is nothing illegal in avoiding tax through arranging financial affairs so as to pay less tax, for example, through covenants. Commenting on the case of the Duke of Westminster v Inland Revenue Commissioners (1948), Lord Tomlin acknowledged that

'If he succeeds in ordering [his tax affairs] so as to secure this result, then, however unappreciative the Commissioners of Inland Revenue and his fellow taxpayers may be of his ingenuity, he cannot be compelled to pay increased tax.' (Lewis, 1977:25).

Avoidance of tax is, therefore, legal but tax evasion, which minimizes liability by omission, mis-statements or fraud, is illegal (see Chapter 1.4 above). The blurring of the line separating avoidance and evasion of tax may lead to an ideological and practical 'space' within which tax fiddles can be committed and justified without the full weight of 'criminal' sanction being brought to bear upon the offender. This is accomplished in part because of the ambiguity surrounding the avoidance/evasion distinction (as in the Rossminster case, discussed in Chapter 5 below), and in the main because of the form of tax law itself: as Uglow (1984) noted, all the offences which the Revenue can call on in major cases of suspected fraud are offences requiring proof of dishonesty, an element of 'mens rea'. As argued earlier, the very complexity of the language and form

of tax law serves to mystify and complicate the (already difficult) issue of intent.

To summarise, the taxpayer's status as employee or employer will determine how s/he pays tax: if the former, tax is deducted by employers directly from an employee's weekly wages or monthly salary in accordance with the instructions received (in the form of a code number), from H.M. Inspector of Taxes (Inland Revenue leaflet P7, 1983). The code number is determined by information the taxpayer supplies concerning his/her tax liability on a tax return form.

In the case of the latter, sole traders, partnerships or companies, annual accounts are submitted to the Revenue giving details of all income, profits, expenses and losses. The amount of tax calculated to be due is collected directly by the Collector of Taxes under Schedule D. As will be seen below, opportunities to engage in tax fiddles vary between Schedule E (P.A.Y.E.) and Schedule D taxpayers: they also vary in accordance to the opportunity structures afforded by particular occupations (see Chapter 4(1a) below).

#### (11) Supplementary benefits

As the brief history (in (a) above) indicated, supplementary benefit is paid following a claimant's establishing his/her entitlement through a means-testing procedure. The decision as to whether an individual is entitled to supplementary benefit is taken by a Benefit Officer in the local D.H.S.S. office. The statutory framework within which Benefit Officers make their decisions is provided by the Supplementary Benefit Act 1976, extensively amended by the Social Security Acts of 1980 and 1986 (N.A.C.R.D., 1986; Lynes, 1985). In addition, the Secretary of State for



Social Services is responsible for the detailed regulations which put the supplementary benefit scheme into operation. Increasingly, caselaw may also augment this legal and administrative framework (Lynes, 1985).

Regulations currently still mean that 'every person in Great Britain who is aged 16 years or over is entitled to supplementary benefit if his resources are insufficient to meet his requirements. Except in certain cases, he must be registered for and available for full-time employment' (Pearl and Gray, 1981:82). Individuals over pension age, those responsible for the care of young children, the sick or disabled or those who are incapable of work for other reasons are not required to register for work and may still claim supplementary benefit. But, for others the scheme is based upon a work-test as well as a means -test, and these (unemployed) claimants must sign on as available for full-time work in order to claim benefit (see Chapter 6 for a discussion of current proposals for a widening of such work-tests).

Another feature which characterises the supplementary benefits scheme is the presumption of nuclear family relationships when assessing entitlement to benefit. For instance, a lone mother who is 'cohabiting' with a man may not claim in her own right because she is assumed to be financially supported by the man she lives with (Chapter 4 will analyse the gender-specific forms of fraud which are generated by such assumptions). Supplementary benefit entitlement is calculated by adding up the requirements of the 'assessment unit' (whether family or individual), in accordance with fixed 'scale rates' of benefit which are laid down by parliament. Additions are then made for variables such as rent, rates and special additions for diet and heating where applicable (Lynes, 1985). Against this figure of 'total requirements' is set any



figure of income which the assessment unit receives, for example in child benefit, part-time earnings, private pensions and National Insurance benefits. Supplementary benefit therefore represents the shortfall between the claimant's statutory financial requirements and his/her income.

The regulations governing the assessment of benefit are both complex and strict. The Social Security Act 1980 sought to reduce many areas of discretion within the operation of the supplementary benefit scheme, particularly in relation to exceptional needs payments. Although the 1980 Act was officially motivated by the desire to prevent abuse and inconsistency and to save staff time, critics argue that in practical terms the Act led to rigid and excessively technical regulations (Rowell, 1982).

The 1980 reforms also involved the abolition of the independent administrative body, the Supplementary Benefits Commission. The responsibility for social security provision now rests with the Secretary of State, who is directly accountable to parliament. But commentators differ in their analyses of the motives and the results of the 1980 reforms. The last chairman of the Supplementary Benefits Commission, David Donnison, offered (in 1982) a prophetic view of the changes which were being brought about:

'The reform of supplementary benefits was not conceived simply as a way of bringing a sensitive sector of government under control. But that is how it could be interpreted. Simplification would then become a way of means-testing more and more unemployed people without commensurate increases in staff. The new decision-making system would be a way of transferring powers from the S.B.C. - a body which could at least be exposed to public pressure - to

the Chief Supplementary Benefit Officer who is safely insulated from the public. . .Special case officers may only be used to process the more harrowing cases without too much scandal and protest. And the Social Security Advisory Committee may turn out to be a respectable front office for a service whose function is to divide the poor from the working population and keep them docile.'

(Donnison, 1982:182-3)

From this perspective, the 1980, 1986 and 1988 reforms can all be seen as attempts to manage and police the poor more effectively as poverty and unemployment increased. This involves blunting any effective opposition to tighter regulation of the poor, whether from within the Social Security system (hence, the abolition of the S.B.C.), or from outside the system (the official discourse on 'efficiency' and 'simplification' thus dominating popular rhetoric on the welfare state). (The political and ideological conditions under which this management is made possible are discussed in Chapters 3 and 6 below).

The policing of the poor has long been accomplished, in part, by the very mechanisms of benefit payment: such payments are made by girocheque or order book, at a nominated post office, and with a 'payday' which is pre-determined by the department. Although such mechanisms may have been designed to safeguard against abuse, they also function to instil a discipline into the claimant. This is the discipline of the workforce, with a payday and either cash or (giro)cheque. Yet the claiming and payment system inserts the stigma of non-work, for instance through the ignominy of the benefit office and post office queues. These administrative preconditions foster feelings of degradation and mistrust between claimant and departmental staff, and between claimant and worker: the latter

categories are, after all, distinguishable within and divided through the post office queue and similar mechanisms which operationalise the welfare sanction. The nexus of mistrust and degradation provides both the conditions under which benefit fraud is committed, and justificatory rationales for its commission (see Chapter 4 (2)).

Both administrative and legal preconditions facilitate the relatively easy investigation, apprehension and prosecution of supplementary benefit fraudsters (as compared with tax fraudsters). No proof of intent to defraud is needed: rather, it is sufficient to show that the claimant made a false statement 'knowingly' (Mesher, 1983; Uglow, 1984; NACRO, 1986). Although there are a variety of offences available under social security law and under the general law, it can be argued that,

'The D.H.S.S. prefers to use offences under the Supplementary Benefit Act because it is easier to get a conviction on a summary offence before a magistrate than on indictment, say under the Theft Act, before a jury.' (Stockwell and Clapham Law Centre, 1983).

In summary, the law and the administrative framework of the supplementary benefits system facilitate a tight and effective regulation of claimants' lives. Modes of regulation are embodied in the processes of 'claiming' from the state. The forms of regulation are both changed (and include, for instance, surveillance) and intensified if a claimant is suspected of fraud. The same may be true if the claimant is merely within a category which is targetted as 'fraud-prone' (see Chapter 4(2b) and 5 (2)).



(c) DIFFERENTIAL OPPORTUNITY STRUCTURES.

The previous sections have argued that the histories of taxation and welfare produced different perceptions of taxpayer and benefit claimant underpinned by contradictory ideologies of individualism and social justice. These contradictions are also evident in the differential responses to taxpayer and supplementary benefit claimant in terms of the administrative and legal rules used to regulate them. This section will argue that both departmental rules and material opportunities lead to differential access to illegal channels of financial gain for tax and benefit fraudsters (techniques of fraud will be discussed in Chapter 4).

As already argued, the letter and the spirit of the law both offer scope, and justifications, for the commission of tax fraud. The Revenue's 'sparing' attitude towards tax evaders coupled with an emphasis (implicit in its administrative procedures), on the taxpayer's duty to declare any change in circumstances, allow the taxpayer much leeway: for instance, leeway within which (successfully) to commit and justify fraud, escape detection, exploit legal loopholes, avoid penalties or to, almost certainly, avoid prosecution (see Chapter 5(3)). But as taxpayers themselves are subject to different rules, so the opportunities to manipulate administrative rules will differ. For example, P.A.Y.E. taxpayers have less opportunity than their self-employed counterparts to evade tax. Employees have their taxes deducted at source, whereas the schedule D taxpayer, in submitting accounts to the Revenue, has greater opportunity to falsify information in annual accounts. But for the majority of taxpayers (who pay by P.A.Y.E.), the main opportunity for evasion consists of 'moonlighting' and concealing invested income. Although there is evidence that such forms of evasion are increasing, they remain relatively small

in scale when compared with the evasion by the trading (Schedule D) taxpayer (see Chapter 4 (a)).

Large companies are therefore not alone in having access to lucrative opportunities for tax evasion. The self-employed, partnerships and small businesses may similarly defraud taxes by understating profits, overstating losses and display a variety of 'fiddles' ranging from nominally employing wives on inflated salaries to exaggerating expenses against income (Mars, 1982; I.R.S.F., 1983). In addition to administrative opportunity, the self-employed and small businesses have greater opportunities successfully to justify their actions in terms of their adherence to the entrepreneurial values of competition, and accumulation. Vocabularies of motive are thus punctuated by references to incentives, repressive taxation and the desire, above all, to be profitable (see Chapter 4 (1b)). Such vocabularies are often expropriated by other categories of taxpayers (non-self-employed) who invoke similar justifications for fiddling their taxes. The degree to which such vocabularies of motive are adopted and accepted as justifications for tax fraud contrasts sharply with the rejection of justifications offered for benefit fraud. In both practical and ideological terms the opportunity structure for tax evasion is considerably more open and acceptable than for benefit fraud.

As far as supplementary benefit fraud is concerned, the brief outline of legal and administrative rules above indicates that supplementary benefit claimants are not given the 'benefit of the doubt' in relations with D.H.S.S. staff in general, and particularly where an overpayment of benefit has occurred. For instance, the form A11 on which entitlement to benefit is based is not filled in by the claimant, but by a local DHSS



office clerk who reads back the claimant's statement of income and requirements. This form is then signed, as correct, by the claimant. This practice contrasts with taxpayers completing a tax return form in the privacy of their own home, infrequently and free from official gaze and scrutiny. The presence of a face to face contact while making a legally binding statement may reduce opportunity for benefit fraud whereas the anonymity and distance involved in preparing tax forms may increase both opportunity for omission and fraud and the excuse of 'mistake' (Beltram, 1984).

Although a simple example, this instance serves to demonstrate differential opportunity in practice. The conditions under which the false statement which constitutes 'fraud' is made are thus very different for taxpayers and for supplementary benefit claimants. These conditions reflect differences in power and credibility: supplementary benefit claimants do not have the knowledge and power to even record their own histories and circumstances. Taxpayers are given the knowledge and opportunity to make such statements, and are believed when they make them. If later proven false, they often cite innocent error or confusion in justification. These excuses are far more likely to refer to the experience of benefit claimants, yet are usually rejected.

For the supplementary benefit claimant, the principle opportunity for fraud is by working while claiming (Mars, 1982; D.H.S.S.[p.c.] 1985). But it should not be overlooked that work opportunities are most open to individuals with marketable skills and this favours those who are relatively successful in the formal economy (I.R.S.F., 1983; T.U.C., 1983). It could therefore be argued that the opportunity structure provided by the black economy favours taxpayers (who are thus already in work), to a



greater extent than benefit claimants. Moreover, work confers opportunities to learn particular fiddles in association with colleagues (Sutherland, 1969; Ditton, 1978) and higher status occupations thus generate opportunities for higher status fiddles (Mars, 1982; Braithwaite, 1984). Supplementary benefit claimants who work while claiming are usually located in marginalised, casualised and low-paid jobs (see Chapter 4(2a)). Their opportunities to fiddle are likely to be determined by material factors, such as unemployment and poverty. The material conditions of taxpayers thus offer a more favourable opportunity structure for fiddles in several ways:

1) Scope and range: administrative and legal preconditions enable most taxpayers to fiddle with some degree of impunity (although greater scope is offered to schedule D taxpayers).

2) Scale: taxpayers are likely to be working in more highly paid jobs than benefit claimants who work on the side as an easily disposable labour reserve. Moreover, taxpayers who submit accounts are dealing with far greater sums (and hence greater possible frauds) than are possible in working while claiming benefit. But, most importantly, benefit claimants' fiddles are limited in scale to the amounts of benefit they receive. Such limits invariably mean that the scale of tax evasion is far greater.

3) Skills: taxpayers are likely to have more marketable work-skills than the unemployed benefit claimant. At the same time, the taxpayer is likely to have social skills and knowledge which facilitate fiddling and also help the tax fraudster to manipulate rules, find loopholes and avoid punishment and criminalization (see Chapter 5).

## CHAPTER 2: SUMMARY

Supplementary benefit fraud and tax fraud are economic crimes which are committed under particular historical, administrative, legal and material conditions. In order to provide a basis for an explanation of differential response to tax and benefit fraud, this chapter has outlined these differential preconditions, and several important themes have emerged.

The histories of taxation and welfare have given rise to contradictory ideological and political effects. On the one hand the taxpayer can be seen as suffering the 'intolerable inquisition' of state taxation, yet on the other hand is valorised as provider of 'fair shares' for the poor. These two representations are not mutually exclusive: although the former view may be associated with nineteenth and early twentieth century social policy and the latter view with post-war reconstruction, the discussion above has demonstrated that the history of taxation is riven with such contradictions. The 'new' view of taxation as progressive and redistributive, did not simply replace the 'old' one: rather, both are invoked in differing ideological and material conditions. Broadly, the new view is invoked to justify levying progressive taxation in order to finance, amongst other things, welfare provision. The old view remains as a powerful reassertion both of the British resistance to taxation, and of the doubts held by many well-off commentators that such tendencies were 'communist' in orientation.

Although apparently contradictory, both views can be seen to underlie contemporary discourses on taxation. For instance, the current Thatcher government has to rely upon the 'new' view in order to successfully seek the compliance of most taxpayers. Good and compliant citizens are thus



essential if the state is to gain the taxation revenue it needs to function at all. But this government is at the same time committed to (New Right) ideological principles which seek to minimise state intervention and maximise market regulation in the economic and social spheres. According to such principles the taxpayer is over-burdened and his/her enterprise is stifled as a result of 'excessive' personal taxes. The current incorporation of both views in dominant political discourse thus gives rise to a significant ideological contradiction in relation to tax: paying taxes is a civic duty, but is (in economic terms) counter-productive. It is this contradiction which enables tax fraudsters to successfully justify their actions, both to themselves and to others (see Chapters 4(1), 5(1) and 5(3)). In practice such contradictions have given rise to the ambiguities and complexities which characterise the law and administration of personal taxation.

The history of state welfare provision is inextricably linked with issues of taxation and work-incentives. For instance, the 1834 Poor Law was conceived as a response to criticisms that poor relief was an excessive burden to ratepayers and was encouraging idleness and dependency amongst the poor. The legacy of the Poor Law is an important feature of the analysis in this thesis because contemporary discourses about supplementary benefit claimants are deeply imbued with notions of the 'undeserving' poor. For example, Patrick Minford currently advocates a system under which the 'safety net' of welfare provision would only be available to alleviate 'avoidable need': under such a system,

'those elderly who saved conscientiously for their old age will be rewarded: they will be better off than those who merely put aside the minimum. That is both just and good for the economy. Under this



system, those who have illegitimate children will suffer; illegitimacy is therefore discouraged. Families which choose to have many children will have less income per head than those who have fewer. . .the system discourages avoidable need, which is of course a good thing. The inevitable penalty is the suffering incurred when people fail to avoid such need.' (Minford, 1987:81)

This is clearly an articulation of nineteenth century arguments that poverty was culpable (or 'avoidable'), the result of individual failing, and so could be deterred. Deterrence could be effected through the principle of less eligibility, put into operation by work-tests and the 'suffering' resulting either from inadequate levels of benefit, or from no benefits at all. Such arguments are as important in analysing responses to the poor in the 1980's as they were in the 1830's.

Beneath these historical contradictions, which inform the law and administration of tax and welfare, lie different conceptions of the role of the state in modern societies. This Chapter has indicated the importance of war, both as a justification for progressive social policies in terms of 'fair shares', and for the collection of personal taxes to finance social policy. But the twin justifications which 'war' offered failed to reconcile the problem of whether the modern capitalist state in which the war was waged (whether war against poverty or against external enemies), was a state geared to the needs of capital accumulation or to the goal of securing consent and legitimation (George and Wilding, 1984). According to O'Connor (1973) welfare-capitalist states cannot raise sufficient taxes to provide adequate services (to secure their legitimation), and at the same time maintain the conditions under which private capital remains profitable (to secure accumulation). These two contradictory functions of

the modern state lie at the heart of differential responses to taxpayers and to benefit claimants (see Chapter 3(b)). The taxpayer is seen to pursue capital accumulation, whereas the benefit claimant is seen as the recipient of state welfare provision.

But legitimation is not guaranteed simply through the existence of such provision. As argued above, the welfare state rested not so much on 'consensus' as on 'grudging acquiescence'. In the last decade this already fragile base has been further eroded: critiques from the left (of poor delivery of services), and from the right (of cossetting welfare and the 'scrounger'), have effectively undermined the legitimation function of the welfare state. At the same time the New Right politics of privatisation and de-regulation have gained dominance and so, for the time being at least, the function of accumulation appears to dominate social policy. Yet the state cannot be sustained without popular consent: debates centred on the National Health Service, the 'Poll Tax' and the 1988 Social Security Reforms are evidence of political struggles involved in the winning of such consent.

Struggles over taxation and welfare, both historical and contemporary, therefore reflect fundamental struggles over the nature and role of the state. One element in this struggle is the deconstruction of the problem of differential political, judicial and popular responses to tax and supplementary benefit fraud.

In conclusion, the important themes raised in this Chapter and which will inform the analyses of the thesis are summarised as follows:

**TABLE 2: 1 CONTRADICTIONS IN THE IDEOLOGICAL AND MATERIAL CIRCUMSTANCES**  
**IN WHICH TAX AND SUPPLEMENTARY BENEFIT FRAUDS ARE COMMITTED.**

<b><u>IDEOLOGICAL DISCOURSES</u></b>		
<b><u>TAX</u></b> as intolerable inquisition	v	Means to ensure 'fair shares'
as disincentive to effort		(Myth of) redistribution of income and wealth
<b><u>WELFARE</u></b> as incentive to idleness,	v	Safety-net provision for needy
<b><u>STATE</u></b> and dependency. Too costly.		
<b><u>OPPORTUNITY STRUCTURES</u></b>		
Scope, skills and opportunity	v	Limited opportunities for
for successful tax frauds.		successful benefit frauds
<b><u>LEGAL CONDITIONS</u></b>		
'Mens rea' to be proved	v	Strict liability for
for tax fraud.		supplementary benefit fraud.
<b><u>ECONOMIC CONDITIONS AND DISCOURSES</u></b>		
<b><u>Emphasis on:</u></b> Market regulation	v	State regulation
Freedom to get (economic)		Freedom to be (individual)
Entrepreneurialism, wealth creation		Less eligibility, work-tests



## CHAPTER 3.

### DEFINING THE PROBLEM: IN COMMONSENSE AND IN THEORY.

#### INTRODUCTION

Having in Chapter 2 examined the differential historical, legal and administrative preconditions and opportunity structures for tax and supplementary benefit fraud, it is now necessary to determine what, in commonsense terms, constitutes 'the problem' under investigation. This involves

(a) An analytic exposition of everyday knowledge about tax and supplementary benefit fraud as evidenced by readily accessible sources of information and comment. By examining precisely how the agenda is set for public debate on the topics of tax and benefit fraud, a clearer understanding should emerge of how the problem is constructed by different interest groups.

(b) Using the exposition in (a) to identify particular vocabularies and clusters of ideas which influence 'commonsense' constructions of the problem. An analysis of the inconsistencies and common themes within these public discourses will provide the conceptual framework which will inform the analyses in Chapters 4 and 5.

Thereafter, the problem of differential response will be deconstructed and analysed in terms of its political, material and ideological preconditions (see Chapter 6). But this Chapter will proceed, as described above, under the following headings:

(a) DEFINING THE PROBLEM: IN COMMONSENSE.

(b) DEFINING THE PROBLEM: IN THEORY.

(a) DEFINING THE PROBLEM: IN COMMONSENSE.

Tax evasion and supplementary benefit fraud may or may not be constituted as 'problems' within public discourse. As will be argued below, the former may be represented as a justifiable 'fiddle' or shrewd business practice, the latter as a despicable form of 'scrounging' from the state. These two forms of economic crime share the same basic characteristic (defrauding the public purse), yet may not be recognised as comparable in popular rhetoric. In order to analyse differential responses to tax and benefit fraud it is first necessary to examine how knowledges about these two forms are created.

But several problems emerge in attempting to disentangle everyday or 'commonsense' knowledge of tax and benefit fraud: for instance, upon what 'official' information are such knowledges based? Is the official information which the Inland Revenue and D.H.S.S. provide about fraud equally available, reliable and amenable to comparison? How is official discourse transformed (or reproduced) into the public idiom? In what ways do the mass media and interest groups respond differently to the 'problems' of tax and supplementary benefit fraud? These questions will be addressed in the following sections:

- (i) Official information - availability, reliability and comparability
- (ii) Competing perspectives on the problem - advocates of 'effort' and of 'social justice'.
- (iii) Media processes and products - scroungers and tax evaders: folk devils and folk -heroes?

#### (1) Official information

As argued above (see Chapter 1(1)), official publications and pronouncements on tax and supplementary benefit fraud need to be seen in terms of what information is provided in, and what is omitted from, official Revenue and D.H.S.S. discourses. The Inland Revenue systematically collect and publish details on, for example, prosecutions mounted, the yields gained from investigation work, numbers of cases where interest and penalties were levied on tax found to be due (indicating the taxpayers culpability) and statements on Revenue policy objectives. All such information is regularly available in the Board's Annual Report (Inland Revenue 129th Report, 1987). By contrast, no similar systematic collection of information is published by the D.H.S.S.. Prior to its abolition in 1980, the Supplementary Benefits Commission produced an annual report, but no current D.H.S.S. publication gives comparable information. The present means for disseminating information on supplementary benefit fraud are Ministerial statements and press releases. The public's knowledge of the costs, scale and investigation of benefit fraud is therefore largely determined by the Ministers who are themselves responsible for framing, directing, administering and evaluating D.H.S.S. policies. Under these circumstances there must be doubts as to the objectivity of such information.

The processes of collection and distribution of information have a direct effect on public knowledge about tax and supplementary benefit fraud. For example, the Revenue's prosecution policy and details of numbers and types of offences prosecuted are available in the Annual Report. As argued above (Chapter 1(1)), this document is evidence of



the openness, clarity and professionalism in the Revenue's approach to informing both its staff and the public on issues such as counter-evasion measures. Such an approach is not adopted by the D.H.S.S.: for example, Mr Hugh Rossi outlined the D.H.S.S.'s prosecution policy in a statement to the House of Commons on 7th February 1983 (in the wake of the 'Operation Major' anti-fraud swoop in Oxford):

'In 1980-81, 121,625 cases of fraud were investigated. They led to 30,116 prosecutions. In 1981-2 there were 136,307 investigations into fraud resulting in 25,654 prosecutions. Convictions were secured in 97% of the cases prosecuted... those figures show that the number of prosecutions in relation to numbers of investigations has fallen from one in four to one in five during those two years.'

(Rossi, Hansard 7.2.83. col.811)

He indicated that the shift towards detection and recovery of benefit, rather than detection and prosecution through the courts, was far more 'humane' (ibid). Not only did this assertion disregard the inhumane treatment of some claimants by investigators conducting coercive 'non-prosecution interviews' (see Chapter 5(2) below), but the numbers which were quoted may have given rise to misleading views on the scale of supplementary benefit frauds: Mr Rossi's statistics referred to all D.H.S.S. investigations and prosecutions yet were offered in response to questions on the prosecutions for supplementary benefit frauds of the homeless in Oxford. Official pronouncements can thus conflate different categories of benefits and so create misleading impressions about particular types of fraud. Such confusion characterises everyday knowledge of supplementary benefit in general. Lack of adequate

information is often cited as one reason for the gross underclaiming of means-tested benefits (Alcock and Shepherd, 1987).

The reliability of official information on supplementary benefit fraud is also called into question when the processes of data collection are examined more closely. For example, figures of benefit 'saved' as a result of investigation efforts are calculated by multiplying the weekly amount of benefit received by the suspected claimant by a number which represents the likely duration (in weeks) of his/her claim (see Chapter 5(2) for a further discussion of 'multipliers'). As a result of the use of these 'multipliers', an element of guesswork is introduced into figures which purport to represent the costs and scale of supplementary benefit fraud. Nonetheless, these figures were used to demonstrate the effectiveness of investigation work (of Special Claims Control Units in particular), despite the dubious assumptions upon which they were calculated. It is therefore difficult to establish the veracity of D.H.S.S. estimates of the scale of detected fraud as the amounts they refer to represent notional not actual losses. This contrasts with Inland Revenue figures of yields from investigation work which refer to actual amounts.

Problems of reliability and availability of official information may directly affect commonsense public knowledge about fraud. Estimated 'benefit savings' may be accepted as indicating the 'real' extent of fraud, and so fuel the scrounger mythology. But equally important is the fact that the more reliable information provided by the Revenue (and which indicates that tax fraud clearly dwarfs benefit fraud in costs and scale), remains largely absent in popular rhetoric. Difficulties are thus presented by the lack of systematic, clear and



comprehensive information from the D.H.S.S. which hinder analysis of benefit fraud and adversely affect public knowledge. But these problems are compounded when the information which is available is used and interpreted selectively by particular interest groups (as will be seen in (iii) below).

A further problem in defining the problem of differential response in commonsense terms is the issue of comparability. One senior civil servant observed to me that examining the differential responses to tax and benefit fraud was like 'comparing apples and pears'. Although the end product of both forms of fraud remains the same (loss of state revenue), it may be argued that direct comparisons are not valid because of differences in the legal, administrative and social processes involved in evading taxes and in defrauding supplementary benefit. However, there are important justifications for a comparative approach. First, there are significant similarities and a high degree of overlap in the activities engaged in by both tax and benefit fraudsters: for instance, 'moonlighting' and other black economy activity often unites those who are evading taxes and those who are fiddling welfare benefits by working 'on the side'. Second, both forms of fraud involve false declarations of personal circumstances to government departments, motivated by the desire to maximise personal gain at the expense of the state: the criminal act is thus essentially the same, (though, as argued in Chapter 2(b) above, the standards of proof required differ). Third, a comparative approach is essential if the broader issues of (a) social justice in a mixed economy and (b) the differential criminalisation of fraudsters, according to their social



and economic status, are to be analysed. These issues are central concerns of this thesis.

In order to make a reasoned comparison between tax and benefit fraud it is first necessary to delineate what forms of tax fraud are being alluded to. Tax fraud may range in scale and scope from concealment of income by P.A.Y.E. taxpayers to complex and massive corporate swindles. For the purposes of this thesis it is necessary to restrict the analysis to a level which is comparable to the experience of an individual supplementary benefit claimant. My analyses will therefore centre on tax frauds committed by individuals subject to P.A.Y.E., by the self-employed and by small businessmen. In this way a valid comparison with the commission of, and responses to, supplementary benefit fraud remains possible. Examples of large scale tax frauds, (for instance the Vestey and Rossminster cases) will be used as illustrations of fiddling at the upper extreme of the socio-economic hierarchy. Although such illustrations provide a useful counter-measure of responses to those at the lowest extreme - the poor - differential response is most effectively analysed by comparing, as far as possible, similar levels of fraud.

Comparability is not only a methodological problem, it has wider implications for public conceptions of tax and benefit fraud. If comparisons between these two types of frauds are absent, then the injustice of differential response remains concealed. For instance, Franey (1983) notes a local case of tax evasion which came to court within a month of Oxford's Operation Major. The directors of The Bear Hotel, Woodstock, ('by appointment to his Grace the Duke of Marlborough'), were found guilty of tax frauds to the tune of £330,000.

However, national media coverage was minimal, being largely confined to the 'quality' press (Guardian 8.10.83. and 11.1.84). As will be seen below (in(iii)), public knowledge of tax and benefit fraud is constructed in a way which does not encourage such critical comparisons (Golding and Middleton, 1982; Franey, 1983). A central task of this thesis is to examine the political, material and ideological conditions under which (a) public knowledge about benefit fraud is constructed in a way which emphasises the social and economic threat it allegedly poses, yet (b) public knowledge about tax fraud is relatively underdeveloped, and fails to attract similar condemnation, and (c) the issues of tax and benefit fraud are rarely linked in the public rhetoric (except by certain campaigning groups), and thus the problem of differential response fails to surface in popular discourse as a problem at all .

#### (ii) Competing perspectives on the problem

The 'problems' of tax and supplementary benefit fraud are constructed within an ideological context. This context is created by co-incidences of particular economic and political ideas which inform the way in which tax and benefit fraud are perceived. Although such clusters of ideas are often complex (and internally contradictory), they will be examined under two broad categories:

1. Advocates of effort (and Revenue critics)
2. Advocates of social justice (and D.H.S.S. critics)

## 1. Advocates of effort

The effort school of thought is primarily concerned with the maintenance of incentives to work, and disincentives to 'idleness'. In so doing it invokes both the virtue of the work ethic and the vice of financial dependency on the state. Both personal taxation and welfare provision are therefore important elements in this school of thought. The alleged links between them are outlined by Hermione Parker (1982) in an article entitled 'The Moral Hazards of Social Benefits':

'A consequence of the widespread dependence on means-tested benefits is that the young in particular feel no stigma when they claim benefit. We are breeding a race which will regard dependence on the taxpayer as a normal state of affairs. Already the young claim social security without hesitation as a matter of right.'

Clearly, Parker implies that stigma should be attached to claiming benefits in order to deter 'dependence': such views are reminiscent of the Poor Law's objective - to deter pauperism. But benefit claimants are being presented as a 'race' apart from taxpayers, and as morally inferior. Rhodes Boyson makes a similar connection between the moral evil of dependency and the provision of welfare benefits by the state:

'If...the state always picks up the bill, there will be no moral growth at all..It has been well said that "the ultimate result of shielding men from the effects of folly is to fill the world with fools". A further effect of too much welfare support is not only that individuals lose their independent character but that they actually enjoy their servitude.' (Boyson, 1978:110)

At the same time, the civil servants who administer the welfare system are seen as both inefficient and 'corrupting' the poor by increasing



dependency. The effort school prefers the poor to depend on private charity, which is humbling and stigmatising, but more efficient in targetting cash:

'As much as Lady Bountiful might be scorned, she also could distinguish between the deserving and the undeserving poor. Not so the state professional worker with his rule book.'

(ibid:110)

Taken together, these views represent most welfare benefit claimants as wilfully idle, 'undeserving' and lacking in moral fibre. By contrast, taxpayers are represented as victims: victims of the idle poor (who are financed by the taxpayer) and victims of the state bureaucracy of taxation itself:

'Taxation has no merit in itself. It is but a necessary evil and should be limited to the lowest level possible.' (ibid:135)

Moreover, the use of taxation as a means of redistributing income is associated with 'envy' and not social justice. Those who manage to avoid paying their taxes are applauded by the effort school of thought;

'Of course tax avoidance does thwart the efforts of egalitarians.

It is perhaps the main defence of the rich against what some would call their right and proper taxation but what others would call their despoilation.' (Shenfield, 1968:25)

Shenfield continues to argue that it can be seen as 'heartening' that the rich have managed to save their wealth from their 'rapacious fellow citizens' (ibid:26).

The traditional British hatred of taxation (see Chapter 2(a) above), is implicit in the 'effort' ideology, and co-incides with emphases on the positive virtues of entrepreneurialism, wealth creation

and 'freedom' through the operation of the market. This combination of ideas is a powerful one, tapping popular resentment to paying tax. Within such an ideological context it is not surprising that the Inland Revenue is subjected to intense criticism. For example, an accountant dealing mainly with small businesses argued 'For some time I have felt that the Inland Revenue is bashing the little man' (The Times, 22.6.85). Another accountant protested that 'people trying to make a go of things get hounded by the taxman'. He further complained at the Revenue's 'assumption of guilt' and 'intrusion' into people's private lives (*ibid*). In a similar vein the National Federation for the Self-Employed complained that the Revenue 'continues to pursue the hapless trader' (Guardian, 12.4.85). It is significant that newspapers such as The Times refer to such views sympathetically, (in this example under the headline 'Tax Hounds'), yet call for more intrusion into the private lives of supplementary benefit claimants under headlines such as 'A life of luxury on the scrounge' (The Times, 21.1.85). Clearly the tabloid press are not alone in using grossly exaggerated 'scrounger' stereotypes (see (iii) below).

For the purposes of this thesis it is important to recognise the important influence of the effort school of thought in constructing public knowledge about taxation and welfare. These views have a long pedigree: the legacy of the 1834 Poor Law is evident in the assumptions of commentators such as Boyson and Parker. The 'old' view of progressive taxation 'tending to communism' (see Chapter 2(a) above) is also evident in effort school commentators. Although New Right ideology (see Chapter 1 (3)) is based on similar assumptions about the value of what is now termed the 'enterprise culture' and the 'go-

getting society', the effort school incorporates a broader spectrum of opinion which has long been influential in shaping public discourses on tax and welfare. Golding and Middleton (1982) identify three key ideas which have, historically, formed the basis of popular conceptions of welfare:

'These were efficiency, morality and pathology: efficiency of the labour market and the economy; morality of the work ethic and self-sufficiency; and the pathology of individual inadequacy as the cause of poverty.' (ibid:48)

Golding and Middleton argue that the 'fixing' of these ideas into prevailing discourses took place in the late nineteenth century, and that the twentieth century has seen the 'naturalising' of these images about welfare (ibid). Following on from this it can be argued that the political dominance of New Right ideology can be seen as won, in part, by the successful incorporation of 'commonsense' ('naturalised') critiques of the taxman and the scrounger which have emanated from the 'effort' perspective.

To summarise, it can be argued that the effort school of thought constructs the abuse of supplementary benefit as a 'problem', but underplays the social and economic damage caused by fiddling taxes. Benefit 'scroungers' are thus evidence of a wider problem of the cossetting effects of state welfare, individual idleness and lack of 'morality' among the undeserving poor. Tax fraudsters are seen as reacting to 'hounding' by the taxman, punitive rates of personal taxation and intrusive state regulation of individuals' affairs. The 'problem' of differential response to tax and benefit fraud therefore does not arise within such discourses.



## 2. Advocates of social justice.

Commentators adopting a social justice perspective locate the problems of tax and supplementary benefit fraud within a structural economic and social framework. Benefit fraud is thus not linked with idleness and lack of work incentives, but with poverty and powerlessness (Field, 1979; Ward, 1985). The problem is thus addressed in a less hyperbolic manner:

'There is nothing wrong... with a department responsible for the payment of some £6 billion in supplementary benefits each year being concerned that it goes only to those entitled. And, given the size of the undertaking, fraud and abuse are bound to occur - just as a degree of shoplifting is anticipated by any large department store. But the ways in which they are controlled needs examining.' (Smith, 1985:113)

The righteous moral indignation and contempt for the culpable poor which characterise the effort school's comments about benefit claimants are absent here. The social justice perspective shifts attention from the 'undeserving' poor to the activities of those who regulate their behaviour. This shift also focusses attention on government policy which shapes investigatory practice, and in this way invokes critical comparisons with policies directed towards tax fraud:

'Government policy towards the administration of the tax and social security systems is socially divisive. While it continues to give great emphasis to tackling alleged abuses of social security, the government consistently refuses to make extra resources available to tackle tax fraud.'

(T.U.C., 1983:3)

To the social justice commentators differential response is a problem, and, according to I.R.S.F. General Secretary Tony Christopher, represents 'a duality of standards no civilised society could defend' (World in Action: Rich Law, Poor Law, 7.2.83).

The trades union movement has consistently attempted to inform public discourses on tax and supplementary benefit fraud (I.R.S.F., 1981; T.U.C., 1983; C.P.S.A., 1984). They have attempted to deconstruct the scrounger mythology and at the same time indicate the unequal responses to tax and benefit fraud in terms of social policy, departmental manpower and societal reaction. These aims have also been shared by other interest groups and by academic commentators (see for instance C.P.A.G., 1985; Franey, 1983; Scraton and South, 1984; Golding and Middleton, 1982; Levi, 1987). But this task has presented several problems.

First, despite notable 'leaks' (such as the Fraud Investigators' Guide, F.I.G. 1983), information concerning the operational guidelines and methods of investigation used to regulate benefit fraud emanates from Ministerial statements. It could therefore be argued that the secrecy surrounding the policing of benefit fraud concentrates the power to define the fraud agenda in the hands of the D.H.S.S. primary definers (Hall et.al., 1978). This argument may help to explain why public knowledge on benefit fraud reflects the political priorities of 'scapegoating' the scroungers (Golding and Middleton, 1982). However, it fails to explain the lack of similarly consistent organised public resentment against the similarly hidden activity of tax fraud.

Second, when advocates of social justice broaden the issue of 'scrounging' into a problem of structural social inequality, they



render the whole issue more complex. Public resentment largely depends on lack of ambiguity: tax frauds are complicated and not easily distinguished from 'shrewd business practice' in popular rhetoric. Tax offences are not easily translated into the public idiom (see (iii) below) whereas restricted opportunity structures (discussed in Chapter 2(c)), mean that most benefit frauds are relatively crass and so may be presented unambiguously. However, media preferences for clarity cannot alone explain the relative neglect of the problems of tax fraud and differential response.

Third, 'commonsense' knowledge is not unified and immutable. The problems of tax and benefit fraud can be represented from a variety of perspectives. But social justice commentators are faced with the problem of reconciling basic contradictions which have historically undermined British commitment to the welfare state (Deakin, 1987), and which are evident in the contradictory goals of 'economic growth' and 'social justice' (see Chapter 1(3)).

Fourth, in drawing attention to differential responses to tax and benefit fraud the social justice school of thought is faced with the task of combatting powerful 'commonsense' notions of whose money is being fiddled. It is far easier to represent the tax evader as merely keeping his/her own money, than it is to represent them as taking money from the state (and fellow taxpayers). It is also a simple to represent those who are already seen as takers (benefit claimants) as taking money from the hard-pressed taxpayer. The differing relations between taxpayer and the state, and benefit claimant and the state are constructed within a particular material, historical and ideological context (see 3(b) below and Chapter 6). Once the nature of these



relationships has been 'naturalised' it becomes difficult (save in an emergency, such as war), to deconstruct the vocabularies of 'givers' and 'takers' which become incorporated into public discourse as 'commonsense'. But the thesis aims to begin the task of deconstruction of such commonsense knowledge so as to reconstitute the 'problem' of tax and supplementary benefit fraud.

(iii) Media processes and products.

Public knowledge of tax and supplementary benefit fraud is, in the absence of direct personal experience, likely to be shaped by images and vocabularies supplied by the mass media (Wilkins, 1964). Although the national press is an infamous source of scroungermania (Golding and Middleton, 1982; Franey, 1983), television also reproduces similar imagery. Arguably, this is because

'Information is controlled and routinely organized to fit within a set of assumptions about how the world works and how it ought to work.' (Glasgow University Media Group, 1982:143)

Thus, according to the Glasgow University Media Group, press and television coverage reflect consensual ideas about 'how the world works' in relation to issues like unemployment, taxation, the welfare state and the institution of the family (ibid). But, as already indicated, vocabularies about work, idleness, tax, welfare, morality, thrift, dependency, inequality, 'fiddling' and 'scrounging' are differentially invoked, depending on particular material and ideological preconditions. For instance, the domestic ideologies about 'woman's proper place' may be reversed when economic conditions (for instance, economic boom or wartime), require their services as a reserve army of labour (Braybon, 1982). In the same way the rhetoric

of 'incentives' may be suspended in favour of 'fair shares' following the levelling experiences of total war.

It cannot therefore be assumed that the construction of a consensus about tax and welfare is a simple process. In addition to 'fitting' stories into a picture of the world which is by no means constant, journalists also fit stories within a set of assumptions about how their job works (Ericson et.al., 1987). In practice the discourses which result may show remarkable congruence as, for instance, reporters from 'quality' national newspapers agree with the commonly held view that social security is a boring subject:

'I mean, who can understand it for a start?...It's to do with money. It's not picturesque, unlike health - patients, wards, that sort of thing. Cuts in social security are complex and difficult to portray, there are no picturesque images.'

(Guardian journalist, quoted in Golding and Middleton, 1982:127)

This belief, that social security is not a 'sexy' subject, means that fascination or compulsion have to be introduced into stories, usually by the technique of personalisation. This technique can be used in a variety of ways: for instance, in a story entitled 'A Life of Luxury on the Scrounge' (The Times, 21.1.85), a reader bemoans that her 21 year-old daughter (who lives with a middle-aged man), has 'never done a day's paid work in her life'. Personalisation is effected through assumed identification with the respectable mother who talks of her social embarrassment and personal disappointment at her daughter's failure (or, 'lack of ambition'). Other elements are borrowed from the scrounger mythology, despite the fact that no fraud has been committed. The only crimes these 'scroungers' have committed are that they have

'chosen to live off government allowances' and that they are living happily:

'A comfortable faintly bohemian lifestyle - wholesome food, home-made wine, the odd cigarette - these two are happily content to rest among the statistics of the registered unemployed.' (ibid)

This story clearly indicates the powerful ideology of the work ethic: in rejecting this ethic, the couple are labelled 'scroungers' and should thus be subjected to state regulation and punishment. The mother also demonstrates her frustration that the principles of less eligibility do not apply rigorously enough to her daughter - the couple own a colour television, a car and a motorcycle!

This story also includes another important element of personalisation - the claimant's failure to adhere to the ideal of the nuclear family style is in itself implicitly criticised. Media attention often reinforces the familial ideal through its castigation (or gross stereotyping) of alternatives. But the desire to maintain the ideal-type family is essentially political, and has assumed a renewed importance in New Right ideology (Levitas, 1986; Fitzgerald, 1983). Lone parent families are, in Minford's words, 'to be discouraged' (Minford, 1987). They are thus presented as culpably deviant scroungers:

'Single parents have made their case so well that they have expanded their subsidies from the public purse from some £15 million in 1960 to £1 billion in 1983...Low paid members of normal families are taxed at standard rate to subsidise not only those forced to be one-parent families by misfortune, but also to



subsidise those who have specifically chosen to be one-parent families.' (Boyson, Guardian, 10.10.86)

These comments, made at the 1986 Conservative party conference, appeared under the heading 'Boyson condemns "evil" single parents'. However, the picture which appeared immediately above this story showed, ironically, Cecil Parkinson, (responsible for one such 'evil' family) and his wife at the conference.

It is significant that the issues of taxation and welfare are linked through the notion of taxpayers subsidising deviant families. An alternative agenda may have drawn attention to poorer taxpayers subsidising those richer couples who live 'in sin' as a means of claiming double mortgage interest tax relief. The 1988 Budget which removed this subsidy merely referred to it as an 'anomaly', or a 'tax on marriage' (Guardian, 16.3.88). Such discourses fail to invoke against the rich the same vocabulary of 'subsidy' or of righteous moral indignation which is regularly invoked against the poor. Public knowledge is therefore created through differential use of discourses on both morality and economics. In relation to economic vocabularies, these financial transfers (described above), are represented as taxpayers 'subsidies' for the undeserving poor, but are represented as tax 'allowances' for the rich.

Personalisation serves to render otherwise-boring social security stories 'sexy', this term being used to describe a high degree of fascination. Examples of this process are also found in local press coverage of benefit fraud, as evident in a story entitled 'Life on the Scrounge' which followed the court proceedings in which a couple were jailed for a £50,000 supplementary benefit fraud. Coverage relied not

upon the court proceedings (as both pleaded guilty), but on the comments of neighbours:

'Neighbours spoke today of the spend, spend, spend life-style of a Wolverhampton couple who fiddled £50,000 in social security handouts. Kathleen Smyth and her husband Tom were always rolling in money...Kathleen Smyth known as the "tatooed lady" admitted 12 charges...While they were enjoying the good life Smyth, a 19 stone mother of six, drank much of the cash away in pubs and her husband bet heavily on horses.' (Express and Star, 15.2.85)

This coverage includes all the necessary ingredients of a scrounger story: massive amounts of cash, local gossip and disapproval, a 'sponging' lifestyle, heavy drinking, and gambling. The language is typical of similar stories which form an important source of local and national knowledge about benefit fraud. Here benefit payments are termed 'handouts' and the depravity of the fraudsters is evidenced in drinking, gambling and the recklessness associated with the 'spend, spend, spend' spree of pools winner Viv Nicholson. In addition there is an insidious sexualisation of this particular story whereby the woman's name appears foremost (and hence attracts unusual prominence). This paves the way for a circus-like titillating exposé of her failure to conform to gender expectations concerning self-presentation, propriety and femininity. The woman's love for her six children is not doubted, but the moralising tone of the story suggests that good mothers (and nice women), do not get drunk, have tatoos or engage in economic crime.

This story is a typical one in its focus on aspects which construct the offence or the offender as 'a-typical' (Cohen and Young, 1973). This technique makes the story 'sexy', but 'by scorning the commonplace



as dull and unnewsworthy, the routine of life's pattern is rendered invisible' (Golding and Middleton, 1982:128). For supplementary benefit fraudsters life's pattern is characterised by poverty and degradation, but this is absent in popular discourses on the 'problem' of scrounging. Yet, as discussed below (Chapter 4 (2b)), these 'invisible' material conditions form the most important self-justification which benefit fraudsters offer for their actions.

Popular knowledge of tax and benefit fraud is constructed within ideological boundaries. Although shifts are possible (see Chapter 6), these boundaries encompass 'commonsense' ideas concerning the work ethic, hostility to taxation, economic success and failure. Politicians are important primary definers of such ideas;

'I was unemployed with debts of £400,000. I know what unemployment is like - and alot of it is getting off your backside and finding yourself a job.' (Jeffrey Archer, quoted in Guardian, 7.10.85)

Archer goes on to describe the large group within the unemployed 'who find it convenient to collect every single benefit God can give' (ibid). The views expressed by Archer and by Norman Tebbit (telling the unemployed to 'get on their bikes'), support the imagery of the idle, undeserving poor (discussed above in Chapter 2(a)). Public knowledge is currently being shaped by official discourse stressing 'genuine' availability for work, to be established by Restart interviews, Job Club attendance and other work-tests (see Chapter 6). The conflation of issues of 'availability' and 'scrounging' serves to cast unemployed people as by definition scroungers.

In summary, it has been argued that the journalist's adherence to 'news values' thus skews media attention towards the exceptional, but



the problem is that the skew is towards 'certain marginal areas (social security abuse), and not others (...tax fiddles)' (Golding and Middleton, 1982:129). Journalists justify this unequal emphasis on the grounds that 'Mr Average' feels social security fraud is more important, yet research on attitudes indicates that public perceptions of right and wrong in public life are not so simplistic:

'if people break the law to help their children, we may judge matters more leniently...If prominent or socially distant persons and organizations are perceived as breaking rules, judgements may be relatively strict.' (Jowell and Witherspoon, 1985:137)

The issue of social distance therefore becomes an important factor in explaining differential response by journalists (and judiciary) to tax and supplementary benefit fraud. This is particularly relevant if the tax fiddles of journalists themselves (see Chapter 4(a)) are also considered). It could therefore be argued that Mr Average is likely to feel that tax frauds committed by the better-off are more reprehensible than benefit frauds committed by the poor, but that s/he is less likely to be told about them. The problem is that media coverage, with skewed assumptions about clarity, importance and 'sexiness', feeds Mr Average with the stories it thinks s/he wants. Tax fraud stories will only gain prominence if they have other compelling aspects, as in the case of 'housewife's choice' jockey Lester Piggott. The public are thus routinely denied the knowledge upon which to adequately assess the problem of tax fraud. Therefore media stories, and the official discourses they often reproduce, effectively foreclose on alternative discourses, for instance about the problem of differential response to tax and supplementary benefit fraud.

**(b) DEFINING THE PROBLEM: IN THEORY.**

Commonsense knowledge of the problem of differential treatment of tax and supplementary benefit fraud is grounded in a complex set of assumptions concerning the essential nature of taxation and welfare in modern society. Complexity arises because the differential histories of tax and welfare, (referred to above), have produced contradictory principles which underlie current welfare and taxation policy. These principles, although antagonistic, are by no means mutually exclusive: existing ideas and social philosophies are never simply replaced by new and alternative ones, but rather they are challenged, incorporated and have an effect upon subsequent discourses. In the case of ideas relating to the welfare state, for instance, principles emanating from the 1834 Poor Law are still evident in the emphasis upon the work-test and less eligibility in 1980's welfare provision.

The following discussion will therefore seek to identify those contradictory principles which inform our current understanding of the role of the state in two interlocking areas: first in the collection of revenue from its citizens in order to finance the various activities of the modern state, and second in the provision of welfare services for those citizens. Having identified these principles in theory, they will then be specifically related to the problem of differential response by empirical examples. The theoretical approach adopted will be to assume that responses to tax fraud cannot be reduced to a single explanation, (for instance, to the operation of free market ideology) any more than responses to welfare benefit fraud can be reduced to the determinism of purely economic relations. The examples given will demonstrate that similar justifications are often offered for both forms of fraud and that



investigators from both departments may use similar rationales for their regulatory activities. But although similar discourses are invoked, they are attributed different meanings and attract different kinds of judicial and societal reaction. Chapters 4 and 5 will indicate how this happens through analyses of the practices of fraudsters and investigators. The analysis in effect involves examining the ideological conditions under which differential response to tax and supplementary benefit fraud takes place.

At the same time it is also necessary to identify the political and economic preconditions for differential responses to tax and benefit fraud. These preconditions derive from the contradictory nature of political, economic and philosophical principles which form the basis of our understanding of personal taxation and the Welfare State. (These contradictory (and sometimes complementary) principles are summarised at the end of the Chapter in Table 3: 1).

### The State

At the heart of the problem of differential response lies a fundamental contradiction between Liberal and Democratic conceptions of the state. Philosophically the 'ethos of liberalism and ethos of democracy are antithetical' (George and Wilding, 1984:238). Liberalism involves a minimalist state only intervening in the affairs of its citizens to preserve law, order and justice. By contrast the democratic state implies positive state intervention to reduce the social inequalities which may affect the citizens ability effectively to exercise his/her democratic rights. According to Marxist commentators such as O'Connor (1973) the contradiction between liberal and democratic conceptions of the state is itself an indication of fundamental contradictions within capitalism.



Capitalism is inherently an unstable economic system, being characterised by periods of boom and slump. Throughout such periods the state must fulfil two contradictory functions of legitimation and accumulation. The former involves the maintenance of the consent of citizens who perceive the social and economic system as free and fair. The latter involves the creation of conditions under which private capital remains profitable. According to O'Connor, welfare capitalism cannot raise sufficient revenue in taxes to provide the services that will ensure its survival through popular consent, and at the same time cannot support private capital too far without losing legitimacy (Mishra, 1984; George and Wilding, 1984).

The tensions created by these two antagonistic functions of the modern welfare state are the tensions which enable entirely contradictory discourses on taxation and welfare to take place. For instance, free market ideology, based upon the principles of liberalism, enables the individual to justify evasion of tax on the grounds of a reaction against excessive state regulation in the free market, and the consequent stifling of enterprise. As will be argued in Chapter 4, these justifications of the 'intolerable inquisition' which tax is seen to represent and the emphasis on entrepreneurial spirit and 'sporting' view of tax evasion all contribute to representations of tax evasion as socially acceptable and even quasi-legal. But the same representations do not result from similar entrepreneurial spirit when demonstrated by supplementary benefit claimants who 'work on the side', despite the fact that these fraudsters' economic motives are the same. Also, excessive state regulation is not perceived as an aspect of claimants' lives which would justify their fiddling, although it appears to excuse the fiddles of the small businessman.

## Ideology

Democratic ideology involves notions of social justice which serve to contradict liberal principles when applied to the role of state taxation. For instance, liberalism advocates minimal state intervention and implicitly minimal taxation. Yet even New Right governments espousing the virtues of liberalism (such as the Thatcher government), are forced to invoke democratic ideology when demanded by the needs of the economy: in the current economic recession this government is increasingly pursuing the tax evader and invoking notions of good citizenship in attempting to ensure compliance to the Taxes Acts. This is almost certainly the result of economic imperatives, yet demonstrates the complexity of discourses surrounding the inextricably linked issues of taxation and welfare. This example also serves to indicate that it is not possible to simply read-off explanations for differential response to tax and benefit fraud from a straightforward class analysis. Although it is tempting to concur that there is one law for the rich and another for the poor, this analysis is too simplistic. It fails to account for the complexity of the discourses surrounding tax and welfare, and fails to account for the fact that these discourses shift over time according to specific material conditions (see Chapters 2(a) and 6).

It may be true, as Wolfe argues, that the problem of tension between free market and social justice ideologies is in essence the location of class struggle (George and Wilding, 1984). It is equally evident that in Britain in the 1980's this struggle is centred upon the issues of the welfare state consensus (or lack of it), and the aims of current taxation policy. Taxation may be perceived as distributive or as a means of maintaining incentives according to social justice and free market



ideologies respectively. In a similar vein, welfare benefits may be seen as a redistribution of income from rich to poor, or as a subsistence level provision to maintain work incentives and thrift. But these perspectives are by no means determined by either class position or adherence to a single set of political principles, nor are they mutually exclusive (Taylor-Gooby, 1985). For example, adherents to the democratic principle in relation to redistributive taxation may argue that they do not pay their taxes in order for benefit claimants to fiddle the system and so illegally maximise their rewards. Furthermore, many taxpayers I interviewed expressed concern at the lack of work incentives which they saw as emanating from a bureaucratic and 'soft' welfare state. Even those who appeared to pay their taxes willingly seemed to be imbued with notions of incentives which owed much to free market ideology. Their attitudes towards supplementary benefit claimants were also influenced by the individualism and free market ideology which together enabled them to perceive the poor as being (to some extent) culpable - for allegedly lacking in the personal qualities of enterprise and effort needed to succeed in work.

### Imagery

At the same time the poor are frequently represented as being at fault in their familial relationships. As will be seen in Chapter 4, lone parents and large families in particular are often regarded as to blame for a variety of social ills, ranging from promiscuity and divorce to crime and delinquency. This, coupled with political critiques of a 'cosseting' welfare state, has led to negative stereotyping of benefit claimants and ultimately to the scrounger mythology, a mythology deeply



permeated by conceptions of the 'deserving' and 'undeserving' poor (Boyson, 1978; Golding and Middleton, 1982).

### Social policy

At a less obvious level a shift has taken place in the emphasis of social policy towards the poor since the later 1970's. A long standing debate between advocates of universalism and of selectivity in welfare benefits has all but been won by the selectivists. Once more it will be argued in this thesis that economic recession is at the root of a trend towards increasing targetting of benefits according to a demonstrable 'need', established through rigorous means-testing. The universalist principle of 'rights' to benefits has dissipated in the face of economic imperatives and the political rediscovery of individualism in the economics of monetarism and the political philosophy of the New Right. Simultaneously an emphasis on the role of the entrepreneur in national wealth creation, and a desire to privatise the production of goods and services has had an impact on taxation policy. De-regulation, rolling back the frontiers of the state and encouraging enterprise are the antithesis of redistributive taxation and the notion of paying tax as a civic duty.

It is at this point that the contradiction between liberal and democratic ideology surfaces as of vital importance in an understanding of attitudes to both tax and welfare. The welfare state consensus is undermined both by policies which seek to reduce the taxation which enables the financing of the welfare state and also by policies which advocate social market principles. As O'Connor indicated, the state's role in accumulation and legitimation are fundamentally at odds, and it is in the arena of welfare and taxation that this struggle is currently taking place. Differential responses to tax and supplementary benefit fraud are

therefore an important aspect of this struggle: through an understanding of the individual's motives for fraud, the investigation and punishment of fraudsters and the public representation of those who fiddle tax and benefits, it is possible to trace political, economic and ideological shifts which influence policy on welfare and tax generally, and fraud specifically.

### **SUMMARY**

The first part of this Chapter examined how everyday 'commonsense' knowledge about tax and supplementary benefit fraud was constructed. In addition to official discourses on taxation and welfare, the examination also focussed on the different vocabularies used by interest groups, who approach the issues of tax and welfare (broadly) from the perspective of social justice or the promotion of 'effort'. Official discourse and the social justice and effort vocabularies have effects upon how popular knowledge is created by the mass media. Media personnel use these vocabularies selectively as they interpret and translate tax and welfare issues.

Journalists and other media personnel are subject to a variety of organizational constraints and hold work-based values which also influence the construction of knowledge about tax and benefit fraudsters. For example, the perceived public 'demand' for unambiguous, simple and personalised stories allegedly renders benefit fraud stories more popular with writers and readers. But the media are not merely reproducers of 'what the public want', rather they are producers of knowledge which the public does not 'already' have. The production of news and ideas is



therefore a complex process, involving both external (contextual) influencing factors and internal (organizational) processes:

'Information does not lie around like pebbles on the sand, waiting to be picked up and turned into knowledge. Knowledge is interpretation in context, and all work of journalists involves interpretation in context as they transform the specialized and bureaucratic knowledge of sources into the common sense. What is required to do this is itself common sense, knowledge that seems natural, practical, simple, immethodical and accessible. The reporter seeks to illuminate, not to search; to borrow not to burrow. His is the power of news transformation, constructing as part of the common sense what most people do not know otherwise.

(Ericson et.al., 1987:346)

The thesis will examine how certain discourses about tax fraud and its regulation are accepted as 'natural, practical and acceptable', whereas alternative discourses are not. At the same time, it is necessary to examine why the vocabularies of motive successfully offered by tax fraudsters (for instance, the desire to create wealth, or the belief that 'everyone is on the fiddle'), are not successful when invoked by benefit fraudsters. This examination thus involves analyses of why some discourses triumph and others fail, and why certain justificatory rhetorics are differentially attributed to tax and supplementary benefit fraud.

The second part of this Chapter outlined ideological and political contradictions and inconsistencies which have enabled the paradox of differential response to tax and benefit fraud. The analysis of these contradictions provides the conceptual framework within which to analyse the empirical reality of differential response (Chapters 4 and 6). The



precise economic and political conditions which enable certain combinations of beliefs, (derived from both liberal and democratic ideologies), to dominate public rhetoric and social policy at certain historical points in time, will be discussed in Chapter 6. In this way the commonsense problem of differential treatment will be deconstructed and its constituents, in terms of social, economic, political and ideological preconditions, will be analysed. Thereafter it will be possible to reconstitute the problem in theoretical terms, allowing for the complexities and contradictions referred to above, and also allowing theoretical 'space' for the changes which have taken place - both in social policy and in attitudes in relation to tax and welfare.

In conclusion, the important themes raised in this Chapter, and which will inform the analyses of the thesis are summarised in Table 3 below.

TABLE 3:1

CONTRADICTIONARY PRINCIPLES UNDERLYING TAXATION AND WELFARE.

CONCEPTIONS OF THE STATE	Liberal minimalist	v	Democratic interventionist
FUNCTIONS OF THE STATE	Accumulation	v	Legitimation
SOCIAL PHILOSOPHY	Individualism	v	Collectivism
IDEOLOGY	Free market	v	Social justice
WELFARE POLICY EMPHASIS	Selectivism means testing 'needs'	v	Universalism citizenship 'rights'
IMAGERY, FOCUS ON	Entrepreneurial wealth creators  'scroungers' 'undeserving' poor	v	Social inequality Poverty  'deserving poor'

## CHAPTER 4.

### THE FRAUDSTERS - TECHNIQUES AND JUSTIFICATIONS

#### INTRODUCTION

This chapter will examine in detail the techniques employed by both tax and supplementary benefit fraudsters to gain financial advantage illegally from the state. Their actions will then be analysed in terms of the fraudsters' own perceptions of their motives, and the justifications they themselves offer for defrauding the public purse.

Initially it is necessary to describe the practices of the fraudsters in order to understand what precisely the commission of tax and benefit fraud involves. Thereafter it may be possible to summarise common themes within the overall categories of tax fraud and supplementary benefit fraud respectively.

In the process of the research itself it became apparent that it was extremely difficult to separate the fraudsters' descriptions of their actions from the justifications which they offered for these actions. The practices of tax evasion and benefit fraud were thus inextricably linked with the material conditions under which the frauds took place and the perceptions and rationales of those committing the frauds. But some degree of separation is necessary in the analysis of the techniques employed and justifications offered, in order to disentangle and reconstitute 'the problem' of tax and benefit fraud. What follows, therefore, will separate these elements under the following headings for ease of presentation and understanding:-

(1) TAX FRAUDSTERS: (a) Techniques. (b) Justifications.

(2) SUPPLEMENTARY BENEFIT FRAUDSTERS: (a) Techniques. (b) Justifications.

## (1) TAX FRAUDSTERS

### (a) TECHNIQUES.

The opportunity to evade tax is to some extent determined by an individual's employment status and consequent mode of paying personal tax. As argued above (Chapter 2 (c)), the Pay As You Earn (P.A.Y.E.) taxpayer has his/her tax deducted prior to receiving wages or salary and this inevitably places limits upon their opportunities to fiddle. By contrast, the self-employed (Schedule D) taxpayer is required to complete accounts at the end of each financial year in which his/her profits are declared, together with a claim for allowances and expenses which are offset against declared profits to reach the appropriate figure of tax liability for that year. Clearly there is far greater scope for tax evasion as a Schedule D taxpayer than for the majority of P.A.Y.E. taxpayers whose tax is deducted at source. As will be seen below, the Schedule D taxpayer may fail to declare profits fully, may overclaim allowances or expenses or do jobs 'on the side' in the black economy if s/he has appropriate skills.

The extent of such irregularities in the accounts of the trading taxpayer is evident in the Board of Inland Revenue's Annual Report. In 1985 it was stated that only 1.48% of traders' accounts for that year were examined in depth, but that 90% of those examined had understated profits. Furthermore, in 37% of these cases financial penalties were imposed, implying the existence of 'wilful default' or negligence (see chapter 5(3)) (Inland Revenue, 1985). It could therefore be argued, on the basis of this examination of accounts, that the majority of trading taxpayers seem to be evading tax. However, it would be wrong to push the P.A.Y.E./Schedule D distinction too far in alone explaining the extent and distribution of tax fraud. There is a good deal of overlap between the techniques of these



fraudsters when one considers their activities in the black economy in general.

As mentioned above (Chapter 1 (2a)), the black economy is a term used to describe 'the sum total of all the various methods of tax evasion.' (Cmd 8822, 1983). From the Inland Revenue's standpoint the black economy consists primarily of 'ghosts' and 'moonlighters'. Ghosts are people who are working but remain unknown to the Revenue: moonlighters are known to the Revenue in one area of economic activity, but also engage in other business (unknown) in addition (Inland Revenue, 1985). Identifying such people is a difficult task involving a variety of investigative techniques (which will be discussed in Chapter 5 (1) below). But it is worth noting that moonlighters may include both P.A.Y.E. taxpayers who, for instance, do evening work in bars, and the self-employed builder who, for instance, builds an extension in his 'free time' at evenings and week-ends. The black economy therefore includes a wide variety of activities, skills and forms of enterprise, all of which are hidden for the purposes of tax and V.A.T.

It is not easy to impose a structured analytical framework upon such diverse and varied activities as serving behind a bar, installing central heating, driving taxis and architects 'doing a foreigner' by drawing up plans (for a small fee and tax free), for their acquaintances. What follows will therefore look at techniques of fiddling tax within the boundaries of an individual's skill or occupational category, broadly summarised as follows:-

(i) The building trade.

(ii) The 'one man band' and small commercial traders.

(iii) Auction and street market traders.

(iv) Highly paid employees, Directors and the Professionals.

### (1) The Building Trade

The building trade became a key focus of concern in the 1970's with much publicity, and subsequently investigative effort, centred upon its systems of payment, in particular the evasion of tax by sub-contractors known as 'the lump'. In an effort to combat what appeared to be widespread abuse, tax deduction certificates, called '714's', were issued to sub-contractors who were registered with the Inland Revenue (under S29-31 of the Finance Act 1971). As a result, nowadays, if a sub-contractor does not produce a 714 certificate then a main contractor must deduct tax at the current rate (presently 27% for the year 1987/8) from his payment, and pass the tax on to the Inland Revenue. If the sub-contractor does have a 714, he can be paid in full and the transaction is recorded on an official voucher. Despite attempts to combat continued abuse, (for instance by the requirement under S69-71 of the Finance Act No.2 1975 for a photograph of the holder to appear on the 714 certificate), there remains a 'black market' both in the 714 'credit cards' and accompanying vouchers (Inland Revenue, 1986). According to the Revenue, 'The tax known to have been evaded on such cases completed during the year ended 30th September 1985 amounted to £35 million' (ibid:5). But despite the massive amounts involved, most sub-contractor investigations 'are focussed on the "mean streets" of labourers' doss houses, or squalid hostels'(ibid).

Once registered as a self-employed, 'bona fide' sub-contractor, many individuals nonetheless go on to engage in seemingly lesser fiddles within the black economy. One such self-employed builder I interviewed was Bill (see Appendix 1 for biographical details). He emphasised the distinction between those jobs which did and those which did not 'go through the books'. Jobs which did go through the books included V.A.T. (where



applicable) in all the estimates he gave, and information concerning these jobs was passed on to his accountant for inclusion in the end of year accounts. Jobs which did not go through the books were usually done (during the evenings or at week-ends) for friends or as 'a favour' and did not include V.A.T. and were not reported to the accountant. Payment for this type of job was invariably in cash, thus avoiding the payment of cheques into his bank account and the resulting attention of the accountant and tax inspector.

Bill also stressed that his skills often enabled him to complete small jobs with very little outlay, in terms of materials, and without the bureaucratic 'red tape' of recording procedures. For example,

'Pointing up a wall or lowering a chimney only needs  
a bag of cement, a trowel, a ladder and a hammer.' (Bill)

But even when red tape, (in the form of building regulations or planning permission) was involved, Bill was prepared to do the job 'on the side' so long as the customer realised it would take longer and involve evening and week-end work. In this way such jobs were seen to serve the interests of the customer who paid less, and the builder, who had a little 'insurance' against problems (such as bad weather or monies owing), deriving from his 'through the books' work (such justifications for working in the black economy will be analysed in (b) below).

For Bill such 'jobs on the side' do not form the lion's share of his income but, he argued, they ensure his financial survival by providing ready cash and a fairly constant stream of small jobs, (often with little financial outlay), in an uncertain trade. Bill does not consider his 'foreigners' (jobs on the side) as in any way comparable to the activities of 'cowboys', whom he derided as both lacking in skill and accountability.



The stereotypical cowboy fiddle was well portrayed in Alan Bleasdale's play, 'Boys from the Blackstuff'. The cheap offers to tarmac a drive (using the ubiquitous lorry load 'left over' from a legitimate job), involve fiddling the main contractor in addition to the taxman. The difference between this sort of fiddle and those engaged in by Bill is essentially one of accountability. Bill's reputation as a good builder depended as much upon his week-end jobs as those officially accomplished 'through the books' in the official working week. The 'cowboys' who work primarily in the black economy are frequently only in a particular area fleetingly, have no reputation to maintain and are not therefore accountable to the consumer; they are virtually impossible to track down in the event of any complaint. Opportunities to fiddle are greatly increased by one-off transient transactions akin to a 'passing trade' (Mars, 1982:138).

The building trade offers an excellent entrée into what has been referred to variously as the hidden, underground, informal or black economy (Henry, 1978; Gershury and Pahl, 1980). The marketability of the skills involved and, frequently, the absence of additional outlay for the fraudster (particularly if the customer buys his/her own materials for the job), enhance the advantages of the 'cash' economy. Henry argues that the hidden economy forms an 'everyday feature of ordinary people's lives' and, moreover, it is

'the on-the-side, illegal activity of "honest" people who have conventional jobs and would never admit to being dishonest.'

(Henry, 1978:12)

However, this view runs counter to the evidence provided to me by Bill. He is, (as are other participants in the black economy whom I have interviewed), acutely aware of the illegality and dishonesty of these

actions and yet rationalise them by utilising a complex set of justifications (see (b) below).

(ii) Small Commercial Traders and the 'one man band'

The activities of many sole traders in the black economy in many ways mirror those of the builder. For example, electricians, plumbers and carpenters who are registered as self-employed have similarly marketable skills which can literally be 'cashed in on' outside normal working hours. Often, though, such traders see their participation in the black economy in social rather than economic terms. One self-employed plumber, Fred, told me that such jobs were done 'as a favour' for acquaintances. The economic rationale is far more evident in the case of individuals who possess these skills and are employees. For instance, workers in the (so far) public service sectors of electricity and gas provision, regard 'jobs on the side' as a useful way of supplementing their earnings. As they are hardly in a position to 'advertise' their availability for such work, jobs are obtained through a grapevine of relatives and 'friends of friends'. A similar situation can be seen in respect of car mechanics. If they are self-employed, the social relationship appears to predominate, whereas if they are employees the cash nexus predominates in black economy relations.

The techniques of evasion in areas of work discussed so far are similar: work is preformed on a cash basis and is not declared for tax purposes. Small commercial traders, though, may engage in other fiddles which ultimately serve to reduce their tax liability by dubious and illegal means. Gerry, for example, owned a small builder's merchants business from which he regularly pilfered materials for his own private use. Because he considered that the stock belonged to him, he undertook several expensive



considered that the stock belonged to him, he undertook several expensive conversions to home using materials that were not paid for and were finally written off as 'losses' of the firm. In effect he had reduced the size of his firm's taxable profits through his pilferage and obtained goods free of V.A.T. He continued such actions perceiving them neither as theft nor as evasion of V.A.T., yet clearly 'crimes' had been committed. As Mars notes, 'theft is a "heavy" word' and the lighter, relatively neutral term 'fiddle' is probably closer to the fiddler's view of his own activities. Furthermore;

'A businessman....might describe his expense allowance as a "perk". Viewed from the outside, it will, however, look like a "fiddle". And viewed from...- for example, the Inland Revenue - it will look more like tax evasion.' (Mars, 1982:166-7)

These differences in terminology are crucial as they implicitly involve self-justifications for the fiddler/fraudster concerned.

Another factor affecting the opportunity, (and possibly the desire) to fiddle tax is the scale of the business in question. One small-scale carpet retailer told me that he felt it was easier to fiddle when he was a 'one man band' operating from home. Once he had purchased retail premises, the high profile his business acquired led him to be more cautious. He argued that it would be stupid to understate profits when anyone could see that the shop was nearly always full of customers. To this extent he believed that visibility was a factor deterring tax fiddles of this kind. He added that if turnover was good there was 'no point' in fiddling anyway, clearly seeing tax evasion as motivated by financial hardship rather than greed. Although this is a debatable point, his belief that 'hidden' areas of trade and business are more fertile ground for potential fiddling does seem to



be borne out: for instance, Gerry's pilferage (and subsequently the firm's and the Inland Revenue's losses), was easier to enact in the covert area of a building supplier's yard. Similarly, a small sub-contractor like Bill could moonlight with relative impunity, but a larger contractor's busy premises or signs displayed upon his construction work would belie assertions that business was bad. This is not to say that all commercial traders are as content to pay their taxes, as the carpet retailer quoted above, but merely indicates that differential opportunities for fiddling depend not only upon the nature of the occupation but also on its scale and visibility.

It could be argued that the nature of tax fiddles simply changes (as a result of the scale of the enterprise), from the crude to the sophisticated. Relatively straightforward moonlighting, (doing jobs 'on the side'), is replaced in larger firms by regularised milking of the firm's resources by its directors, or by systematic under-declaration of taxable profits (See (v) below for director's fiddles).

#### (iii) Auction and street market traders

So far this discussion has focussed on moonlighters, but another means of evading tax altogether is by ghosting. Ghosts, as the name implies, are shadowy individuals who are difficult to trace and are consequently invisible to the Revenue. Many day-to-day traders fit into this category: for example, individuals who set up market stalls on a one-off basis or who irregularly offer to fill the stalls of absent official traders. Although it may appear that the evasion of tax involved in such cases is small, vast sums may be at stake. An Inland Revenue senior official told me of one street trader whose earnings over the past seven

years had totalled £150,000 and whose tax bill, once this had been become known to the Revenue, was correspondingly substantial.

The techniques involved in this form of fiddle centre on constantly moving, preserving anonymity, trading in cash with goods (enabling a quick turnover), and maintaining 'invisibilty' with regard to the Inland Revenue. These same techniques are applied to fiddles in the sphere of auctions. An individual may buy up household goods for auction in one area and then sell them at a profit in another. Similarly, household goods and furniture obtained through 'house clearances' may be sold at a profit. If the person concerned can pay in cash, then they can remain anonymous or alternativley, when buying at auction, they may use a false name.

More recently, car auctions have provided a similar opportunity for ghost dealers to emerge. As invisibility is essential, such traders seek to avoid advertising cars or goods for sale in the classified columns of the local press in which, officially, they must include the word 'Trade' when placing adverts. Another trading situation proving lucrative for ghosts is the car boot sale, which fund-raisers often find an increasingly favoured alternative to auctions and jumble sales. For ghosts, the opportunity to buy in goods for resale at a profit, and to sell others, is attractive, cheap and offers the benefits of ease of mobility, cash trade and anonymity. As noted above, in relation to 'cowboy' builders, the existence of transient, cash-based commercial relationships particularly facilitate tax evasion.

(iv) The Hotel and Catering trade.

'A recent survey by tax offices in one region found that hotel and catering staff in some larger well-known establishments received up to £7,500 a year in tips. The review yielded some £650,000 in tax and the lowest average agreed tips per full-time worker was £750 per annum.' (Lindsay Cook, Guardian, 11.5.85).

Non-declaration of tips is the simplest and most common form of tax fiddle in the hotel and catering industry. By failing to declare tips, an employee is effectively receiving income without tax being deducted and is, therefore, guilty of evasion. However, this type of fiddling is rarely perceived by the recipients as being a criminal act - as in other fiddle-prone trades, the gains made are considered to be 'perks' or a means of making up for low 'official' wages (Mars, 1982:152). In effect, fiddling taxes may serve to both facilitate and encourage low paying employers in an area of the economy which is highly vulnerable, casualised and relatively un-unionised; an area where, according to Mars, two-thirds of employees tend to be underpaid (ibid).

Another form of fiddling which is prevalent in the hotel and catering industry is moonlighting. Employees working full or part-time elsewhere may top-up their official wages with tax-free earnings from working in bars, hotels, cafes and clubs. As one mechanic noted, moonlighting in the hotel trade has its advantages;

'I'd get a tenner a night, and as many drinks as I wanted. By four in the morning I'd be paralytic and have some ready cash.'

(quoted in Rawnsley, Guardian, 27.12.85)

Employers are not obliged to deduct tax unless an employee earns an amount in excess of the current single person's tax threshold, currently



£2,425 per annum (1987/8). However, they are required to satisfy themselves that the employee does not have employment (or income from) elsewhere (Inland Revenue booklet P7, 1983). If a part-time employee admits to having another job, a form P46 must be sent to the local tax office who will then note his/her tax records at the main employment and deduct P.A.Y.E. tax as appropriate (ibid). The employer's guide to P.A.Y.E. clearly indicates that,

'The employer should consult the tax office whenever he is in any doubt as to whether or not P.A.Y.E. should apply to a particular employee or group of employees.' (ibid:9 )

If an employer ignores this requirement, or simply does not 'ask any questions' regarding possible jobs elsewhere, he may be effectively colluding with moonlighting employees. Furthermore, some unscrupulous employers (often eager to capitalise on low wage rates and casualised labour), may suggest that an employee use a fictitious name so that, when entered on an end of year return of all employees, it is not traceable by the Revenue.

Employers may therefore abrogate their responsibility to fully consult tax offices about employees with other jobs, and thereby fail to deduct P.A.Y.E. where total earnings exceed the tax threshold for both employments. This can also result from categorising an employment 'casual'. Casual employees do not have tax deducted unless their earnings exceed the tax threshold, and only a note of their name and address needs to be kept by the employer. As we have seen, these details may be falsified too. The employee, if moonlighting, will gain by this arrangement because tax is being evaded. The employer gains in two ways: first, he need not incur the administrative costs of operating P.A.Y.E. and second, he has the

advantage of having a cheap, disposable and vulnerable workforce. These fiddles are frequently evident in the hotel and catering industry which is characterised by unsocial hours, part-time and casual working and low wage levels. It must be remembered, however, that other market areas, (notably contract cleaners) may operate similar fiddles.

The licensed trades are notable for 'triadic' fiddles, usually involving short-changing customers, over-charging or giving short measures (Mars,1982); frequently the victim is, therefore, the customer. Some pubs may evade tax by, for instance, serving snacks or buffet meals as a 'sideline' without declaring the resulting profits for tax or V.A.T.. One instance of this occurred when I observed a landlady surreptitiously displaying a small cardboard sign to her regulars which read 'Don't ask for food today -VATMAN IN!'. However, scope for tax evasion is limited to some extent by the direct comparability of one pub with another either in proximity or scale. A tax inspector may therefore gauge whether profits are being grossly under-estimated in relation to other similar licensed premises. Arguably, the notion of an acceptable fiddle is at work here, both on the part of the evaders and the tax inspectors: as long as the 'crime' is not too large, too obvious or too 'cheeky', then it attracts little serious attention. A key technique in this type of fraud appears to be that of assessing the safe scope for fiddling tax; an equivalent technique for the moonlighter, as for the tip-receiving staff, is simply to collude happily with the employer, keep a low profile and take care not to get caught.



(v) Highly-paid employees, directors and the professionals.

According to a confidential T.U.C. report on tax evasion and avoidance, 'Higher income earners are generally better placed to take advantage of tax allowances, and therefore have more scope to avoid the payment of tax' (T.U.C., 1983). To assess this view, it is necessary to examine the 'allowances' and expenses which may be paid to these employees, and the means by which they are declared to the Revenue.

Employers are obliged to complete a form P.11D annually. This form gives details of 'all expenses, benefits and facilities' provided to highly-paid employees, directors and their families. These expenses, benefits and facilities currently include the following: cars available for private use, car fuel provided for private use, entertainment allowances, general expenses allowances, travelling and subsistence, subscriptions (to professional and learned societies, London and provincial clubs and leisure and sporting clubs), private medical and dental treatment (or cost of insurance against such treatment), educational assistance provided, goods and services provided free or below market value, work carried out at the employee's/director's home, personal or domestic staff, vouchers and credit cards, accommodation, cars, property or assets given or transferred to the employee/director, telephone provision or 'any benefits or facilities of whatsoever nature not returned under any previous heading'! (Inland Revenue form P.11D, 1985). In short, any asset or benefit-in-kind provided to an employee or director is taxable. Although penalties may be imposed on employers who delay completing these forms, or who make 'incorrect returns', considerable scope does exist for evasion as ultimately the Revenue trusts employers to declare fully all benefits paid out, and similarly trusts employees to declare fully all the benefits they receive.



Collusion between employer and employee can serve to conceal untaxed payments in a variety of forms. These may be considered 'perks' by the firms and employees concerned, but are in fact taxable sources of income. In the case of Gerry, he certainly received goods and services 'free or below market value', and furthermore a good deal of work was carried out by the firm's employees 'on the side'. Many highly paid employees make a habit of collecting restaurant receipts from their family and friends in order to obtain entertainment allowances from the firm. In addition to fiddling their employer (in one instance by using a receipt for a Saturday evening meal for ten friends as a 'business expense'), by claimin such entertainment allowances, these employees often fiddle their personal tax by not declaring these allowances on their tax returns.

As the T.U.C. report (1983) indicated, there is indeed enormous scope for highly paid employees to fiddle their tax. This is a direct result of the higher social status their work is accorded and the consequently higher rewards and allowances that may be provided to them by their employers. Employers who wish to retain and to 'motivate' their executive staff may well do so at the expense of the Inland Revenue. As Chapter 5 will argue, the Revenue, in times of severe staffing cutbacks, has insufficient staff to examine forms P.11D in any depth at all. As a result many abuses go unchecked, in every sense.

In addition to the expenses and allowance fiddles already discussed, certain professions appear to be prone to specific fiddles which derive from the opportunity structures within the profession itself. For instance, a senior Revenue official told me of e recently publicised fiddle by Doctors who prepared appropriate certificates to enable cremations to take place. Doctors received a set fee for their signature on these

certificates, and frequently failed to declare these fees for tax. Known in the trade as 'ash cash' these payments are one example of the medical profession's contribution to the black economy.

Other professions are equally fiddle-prone. Academics do not always declare fees for guest lectures, examination marking and occasional publications. However, the Revenue has begun to restrict such opportunities through regulations taxing such payments at source (as is the case for P.A.Y.E. generally). One architect I spoke to also engaged in professional moonlighting: he regularly drew up plans for extensions for friends, acquaintances and relatives. All payments for his services were in cash and were not declared for tax. Similarly Rawnsley refers to

'local authority architects doing what they call "homers" for private clients whom the've met during the passage of planning applications.' (Rawnsley, Guardian, 27.12.85)

In this respect professionals, whether self-employed or not, may engage in moonlighting and 'jobs on the side' in exactly the same way as builders, plumbers, car mechanics, hairdressers, gardeners, electricians, caterers and bar staff.

Alternatively the profession itself may offer insider knowledge which provides the basis for a fiddle. One such example concerns fiddles associated with deeds of covenant. This may at first appear only to involve avoidance of tax, but in a routinized and organized form may constitute evasion. The Board's Investigation Office has recently turned its attention to deed of covenant fraud amongst solicitors and accountants (see chapter 5(1)). This evasion technique exploits current regulations enabling individuals to arrange deeds of covenant, for a son, daughter, grandchild or close friend, through which they make an annual payment,



typically to a student entering higher education. As students are, typically, not liable to pay tax, the Revenue pays back to the student the tax which the covenantor is assumed to have deducted before paying over the sum. So, for instance, if £1,000 p.a. is covenanted, the Revenue pays £270 (the basic rate of tax for 1987/8 being 27%), to the student who is assumed to have received £730 from his/her benefactor. In reality the deed of covenant offers a legitimate tax dodge for many parents of college students, who are able to supplement student grants with cash from the taxman. However, the system is open to abuse, as a Revenue investigator admitted:

'Until recently this [deed of covenant fraud] has been largely disregarded but the scale of abuse, either through non-payment of the sums covenanted or through reciprocal arrangements in which families agree to covenant for each other's children and share the gain, has meant that it can no longer be ignored.'

(Board of Inland Revenue, Network, January 1986)

As the result of an investigation into one such fraud, a senior partner in a large firm of accountants was successfully prosecuted (ibid). But clearly with Revenue staff already over-stretched, much of this type of fraud remains uninvestigated and undetected. Perhaps this accounts for reforms, announced in the 1988 Budget, which will effectively stop such fiddles by ending tax relief on all but charitable deeds of covenant (see Chapter 6 for analysis of the 1988 Budget).

Journalism is also an area of work with its own specific opportunity structure for fiddling expenses and tax. A journalist (working for a regional evening newspaper), explained to me that many fiddles centre on the freedom of many journalists, (particularly those working for the



national press), to 'chase a story'. The chase can involve much travel: the journalist may find out the rail fare to a town 100 miles away, claim to have stayed overnight and so claim subsistence, add a few pounds for 'entertainment' of the person being interviewed and tot up a sizeable expenses claim. In reality the journalist may never speak to the person involved (ie. the story peters out), or may have already obtained sufficient information over the telephone. But, once more, there is a consensus regarding what level of fiddling is acceptable, and a good deal of silent collusion on the part of employers, as one Fleet Street journalist confirmed:

'It is well known in journalism that "a good story deserves good expenses", and when I say it's well known, I mean well known by management as well as by staff.' (Mars, 1982:47)

So long as fiddles remain in mutually acceptable bounds and part of a well-kept secret then they are 'safe' for all concerned. But the risks of exposure and detection increase if the perpetrators become too greedy or too cheeky. For instance, in 1979 the Revenue was unable to ignore moonlighting and ghosting Fleet Street workers being paid under the names of 'Mickey Mouse' and 'Donald Duck'. Yet, significantly, an 'amnesty' was offered by the Revenue to the fraudsters (Daily Telegraph 5.3.79): this was ostensibly to put an end to such fiddles, but showed a recognition on the part of the Revenue that they were unable to tackle the problem without seeking the compliance of the 'taxpayer'(see chapter 5(1)).

Highly paid employees, directors and professionals have similar opportunities as other occupational groups to fiddle tax through moonlighting. But in addition they have further scope for tax evasion through fiddling allowances and benefits-in-kind, sometimes with either

the active connivance or quiet tolerance of their employers or, if self-employed, their accountants.

#### Summary of tax fraud techniques

A variety of techniques have been described whereby individuals can evade paying the full amount of tax chargeable on their income. As noted earlier, one factor which is crucial in determining the means of evasion is the mode of payment of that individual's tax: if tax is deducted through P.A.Y.E. then obviously the most appropriate techniques involve, for instance, moonlighting. If self-employed, then techniques involving the under-statement of profits and over-statement of allowances are additionally appropriate.

In recent years the P.A.Y.E. taxpayer's opportunities to fiddle have been greatly restricted by changes in the administration of the Inland Revenue, changes which are collectively known as 'the Unification of P.A.Y.E.'. This term denotes a variety of procedural and legislative changes designed to simplify the assessment and collection of P.A.Y.E. by gradually removing 'allowances' which used to be off-set against a person's tax liability. This assessment was accomplished by a complex formula, eventually resulting in the computation of the appropriate tax 'code' number. This code was put into operation by employers who used it to calculate the correct amount of tax to be deducted from the person's wages/salary, in accordance with the tax code. But, as Unification of P.A.Y.E. has proceeded, many of the allowances which formed part of the calculation of a tax code have been abolished: for instance child allowances, life insurance relief and building society relief have all been abolished over the last decade.

As a result, P.A.Y.E. has been simplified by changes such as the direct payment of child benefit, life insurance premiums which incorporate tax relief and the M.I.R.A.S. scheme (Mortgage Interest Relief at Source). Similarly, in 1985 the 'Composite Rate Taxation Scheme' enabled banks and building societies to tax at source all interest they paid out (with the exception of certain low-interest accounts). Evasion of tax by individuals concealing the bank interest they received was effectively eliminated by this latest unification measure. Therefore several key variables involved in calculating an individual's tax liability have been eliminated and the personal taxation system considerably simplified. But, equally, this simplification has removed the P.A.Y.E. taxpayer's opportunities to fiddle through, for instance, false claims to child allowance and failing to declare bank interest. As one senior tax official noted,

'If you look at Revenue prosecutions historically, the biggest proportion were for false claims to allowances. That was taken over for two reasons: firstly child allowances were abolished and secondly there were the lump prosecutions...' (O.V.S., 1985)

This comment signifies that although one door was closing for tax evasion, another was being opened. The abolition of child allowances clearly eliminated a prevalent form of fraud, but the expansion in the construction industry facilitated the sub-contractor (lump) fiddles which were so prevalent in the 1970's.

It can therefore be argued, following the analysis above, that techniques used to defraud the Revenue are related to two sets of variables:



- 1) The opportunity structures presented by certain occupations, or by changing conditions in the wider economy.
- 2) The opportunity structures as delimited by the (changing) administrative procedures used by the Revenue to collect P.A.Y.E. and Schedule D tax.

This part of the Chapter has also analysed the tax fiddles associated with particular occupational groups, whose techniques can be broadly summarised as follows:

- 1) Moonlighting: concealed additional earnings.
- 2) Ghosting: failure to pay any tax at all, being invisible to the Revenue.
- 3) Sub-Contractor Fraud and fiddles associated with the construction industry: the lump and 714 Certificate frauds.
- 4) Fiddling Expenses, Allowances and Benefits-in-Kind: an employee's failure to declare payments received from their firm/employer.
- 5) Fiddling the Accounts: a self-employed person/trader under-stating their profits and/or over-claiming their allowances and expenses.

The first three categories of tax fiddle - moonlighting, ghosting and construction industry fraud - constitute a large proportion of what is termed 'the black economy'. By contrast the fiddles in 4) and 5) form part of an alternative opportunity structure, often associated with the highly paid and the self-employed. But no single category is mutually exclusive: for instance, professionals such as doctors and architects can engage in moonlighting; self-employed builders may moonlight and under-estimate profits too!

Tax evasion is by its very nature a secret activity and involves the fraudster in constant efforts to outwit the Revenue. Fraudsters thus become both reactive (reacting to procedural changes instituted by the Revenue), and proactive (seeking out new opportunities within the economy). The typology offered above is therefore a summary of the current techniques of evasion, but is by no means immutable. Nonetheless, the hidden agenda behind the operation of these techniques is a complex set of self-justifications by which fraudsters seek to define themselves in a way which distances them from 'real criminals'. These justificatory rationales will now be analysed.

## (1) TAX FRAUDSTERS

### (b) JUSTIFICATIONS.

The old saying that 'only two things are inevitable in life - death and taxation' exemplifies a traditional British hatred of personal tax. This view is largely the product of a political and economic culture which stresses the primacy of individualism, and a belief in the market as sole regulating force within the economy (see Chapter 3). British reluctance to pay centrally collected, state determined taxes has distinctive political and ideological roots (see Chapter 2). Many of the justifications offered by tax evaders are built upon a bedrock of assumptions laid down centuries ago, yet still deeply held within the British culture. At the same time, pragmatic reasons are given for fiddling tax which, together with a variety of personalised moral justifications, enable the fraudster to constitute him/herself as

1) Rational

2) Morally 'right'

3) Non-criminal, despite the illegality of the act committed.

Justifications are often offered in a conglomerate of cultural, pragmatic and ideological rationales. In order to unravel the constituents of these justifications it is first necessary to examine the common themes which emerged when analysing the comments made by the tax evaders themselves. Certain arguments were identified as present (in one guise or another), in the justifications offered by all of the tax fraudsters studied in the course of this research. These themes will therefore provide the basis for analysis in this part of the Chapter:



1) 'An Intolerable Inquisition' - taxation as anathema to British culture.

2) Taxation as a stifling of incentives.

3) 'Everyone does it' - tax evasion as ubiquitous.

1) 'An Intolerable Inquisition'

This justification for tax evasion centres upon the allegedly intrusive nature of personal taxation and the negative effects which tax is said to have upon the honest, thrifty taxpayer. It is a view which is associated with commentators from, amongst other organizations, the Adam Smith Institute (A.S.I.) and the Institute of Economic Affairs (I.E.A.). The I.E.A. argue that both avoidance and evasion of tax are inevitable, given what they perceive as penal high rates of taxation (I.E.A., 1979). Justifications for evasion are also evident in the I.E.A.'s comment that the Inland Revenue displays 'impertinence' in some of its tax collection methods: for instance, in deducting tax at source! (Tullock, 1979). Such commentators are implicitly arguing that 'unjustifiable' taxation merits justifiable crime in the form of tax evasion. But the argument is presented in a form which emphasises the allegedly 'totalitarian' and draconian nature of the Inland Revenue, and which therefore deflects attention from the criminal nature of tax evasion. It is amusing that when one such I.E.A. commentator does acknowledge the criminal element in tax evasion he is referring to Al Capone (who was jailed for tax evasion)! (Myddleton, 1979).

The 'intolerable inquisition' school of thought stresses that Revenue rules are oppressive in character and so the nature of the

rules actually fosters rule-breaking. Furthermore, this school suggests that attention should instead be drawn to the unacceptably severe rules whose infraction constitutes evasion, rather than to the evading taxpayers themselves (Christie Davies, 1979). But, it is significant that these arguments are not applied to all offenders: as will be argued (in section (2) below), the intrusive and unacceptable features of D.H.S.S. rules are not successfully invoked as adequate rationales for excusing benefit fraud.

On a grander scale, I.E.A. authors come close to seeing Revenue attempts to counter evasion as pointless, menacing and un-British. For instance, in an article entitled 'The Futility of Taxation by Menaces', former secretary of the Inland Revenue Staff Federation, Lord Houghton, dismissed appeals for more Revenue staff to combat evasion as 'yearning for the impossible'. Although in the current political and ideological climate this may appear a sound observation, Lord Houghton was, rather, arguing that

'The big stick will not resolve the dilemmas and discontents of people trying to find some grounds for confidence in the future for themselves and their children.' (Houghton, 1979)

This former Labour party minister had earlier put forward the view of essentially 'honest' British taxpayers seeking a better future for their children: on this occasion the argument was used to oppose increases in the powers of tax inspectors:

'Are not the fiddles, the lump, the fringe benefits, the moonlighting, the artifice and subterfuges of avoidance and evasion signs of the breakdown of the otherwise honest taxpayer caused by the weight of direct taxation upon extra

effort and successful enterprise?' (Houghton, The Times 16.8.76)

Assertions such as these are little more than a re-hash of reactionary ideological arguments emanating from an individualist perspective on both economics and social policy. As already indicated (chapter 3), these arguments presuppose a positive relationship between wealth and enterprise and see taxation as a threat to both. Equally, the ideology of liberalism advocates minimal state intervention, as the individual is the primary source of economic and social responsibility. In this sense the tax-collecting activities of the state can be represented as both morally wrong and economically counter-productive (see Chapters 3 and 6).

Despite the weaknesses in these arguments and the deep contradictions to which they give rise in a capitalist 'welfare' state, such views remain powerful and persuasive at the level of public ideology. For example, the notion of the intolerable burden of taxation is a popular one: a study conducted in Scotland found that 62% of those interviewed considered the level of income tax was 'much too high' and only 5.5% considered it 'about right' (Dean, Keenan and Kenney, 1980). Perhaps because of this impression that the British are over-taxed,

'two-thirds of respondents thought that most people would hide a small amount of their income if they thought they could get away with it, and 44% thought that such conduct would not be "bad".' (Dean, 1981:47)

What is important here is that there is a popular belief that British citizens are over-taxed, and that this popular belief, (whether ill-founded or not), surfaces as a justification for evading tax. Certainly, all the small businessmen I interviewed considered



themselves to be over-taxed, and this factor was often linked with other 'intrusive' aspects of state regulation. For instance, Bill (a self-employed builder), linked what he perceived as heavy taxation with the 'red tape' involved in completing tax and V.A.T. records. He therefore justified his tax evasion as a logical response of a hard-pressed, hard-working, heavily-taxed citizen to the intolerable inquisition of state bureaucracy. Yet at the same time he argued that 'if I do a job for you on the side, I'm doing you a favour by giving you a cheap estimate' (Bill).

Although the formal logic used by Bill and others to justify tax evasion centres upon the burdensome complexities of state regulation, the effective rationales are self-interest and reciprocity. Thus the black economy is justified because both trader and customer gain financially at the expense of the state. But social scientists studying the formal and informal economies may conflate the formal and effective rationales:

'Legal changes also push production from the formal to the informal economy. V.A.T. means that money payments in cash become illegal and unrecorded. Steep rates of personal taxation, obligations to pay high national insurance contributions and employment protection legislation: all these encourage both casual work 'for cash' and do-it-yourself.' (Gershuny and Pahl, 1980:7)

These authors are in danger of uncritically accepting that, for example, V.A.T. automatically led to an explosion in fiddling. This view is excessively deterministic, as it would imply that the state alone and directly creates evasion by creating rules: in this respect Gershuny and Pahl are arguing along the same lines as the I.E.A.. As

argued above, there is a far more complex relationship between administrative regulations and techniques of tax evasion. Any analysis needs to focus not only on state regulation and bureaucratic processes, but also on wider economic conditions and on the specific opportunity structures for fiddling. The introduction of V.A.T. is certainly an important variable, but it is not the only one needed to explain the extent and form of the black economy.

Another problem arises from these authors' contention that steep rates of taxation, high national insurance contributions and employment protection legislation have encouraged casual work. Their observations relate to high income-earners and employers, and it is the perspective of these groups which is favoured by such justifications for tax evasion. Thus the introduction of employment protection legislation in itself did not effect a shift towards casual labour: workers did not decide to become 'casual' as a result of legislation! Rather, it is the response of employers to such legislation which is of significance. It seems that the rationales of employers and of the (relatively) rich are the ones which dominate public discourses on the justifications for tax fraud. It is therefore not surprising that these justifications, whilst dominant in legitimising tax evasion, are not successfully invoked to justify benefit frauds committed by the poor when they work in the black economy.

The National Federation of the Self-Employed (N.F.S.E.) is another organization which, like the I.E.A., espouses the 'intolerable inquisition' view of taxation (and was associated in Chapter 2(c) with the 'effort' school of thought). The N.F.S.E. also sets the tone of discussions concerning taxation essentially in negative terms and from



the perspective of employers. Using the imagery of the 'hapless trader' who is 'relentlessly pursued' by the Revenue, the N.F.S.3 and its supporters represent the self-employed as overburdened with the duties of tax collection and administration imposed upon them by the state (Guardian, 12.4.85). The Institute of Directors also promoted this view when announcing the results of a survey in August 1986, which indicated that the Thatcher government's policy of de-regulation had failed to remove the heaviest burdens oppressing businessmen - two of these 'burdens' were noted as the operation of P.A.Y.E. and V.A.T.! At the same time they represent the taxman as 'over-zealous' and accuse the Revenue of 'bullying' small businessmen 'into paying vast sums of money which are not lawfully due' (Guardian, 27.12.85). Once again the charge of illegality shifts attention from the likely evaders of tax onto the architypal folk-devil, the taxman. Although assertions of Revenue bully-tactics and illegal purges may seem highly dubious, (and I believe they are), such views are not readily dismissed. For example a recent series of Guardian articles, (written by an accountant and based on a handful of tax investigations) contended that

'There is a new and unhealthy spirit of aggression within the department. Some of the people who make complaints of this sort to me are afraid to speak out publicly because they feel they are always vulnerable to reprisals from the department.'

(Joe Horner, Guardian 21.11.87)

The notion of 'reprisals' is typically associated with, for instance, terrorist organizations and has an inflammatory effect when discussing the activities of the Inland Revenue! Such notions also grossly exaggerate the power of individual tax inspectors, but at the same time



they do make for good newspaper stories. The new 'spirit of aggression' perhaps signifies the gradual impact of compliance initiatives in local tax districts and simultaneous lessening of the Revenue staff's sympathy with those who evade tax (see Chapter 6 for analysis of recent shifts). But the language amplifies and distorts these newly-perceptible shifts. It constructs the image of taxman as an aggressive post-1984 'Big Brother' and thus reinforces the intolerable inquisition view of taxation.

The small businessmen, directors, farmer and highly paid employees whom I interviewed all set the issue of tax evasion within the context of burdensome state demands, whether in the form of V.A.T. returns, P.11D expenses returns or business accounts. For directors and highly paid employees, the Revenue's tightening up of regulations concerning the taxing of 'car fuel benefits' (Finance Act, 1982), had engendered much hostility. What had been regarded as a valuable 'perk' was being clawed back in tax and those individuals with company cars felt they were being over-taxed rather than being taxed legitimately on a benefit provided by their firm/employer. A logical consequence of this belief is to see fiddles in relation to expenses and benefits-in-kind as merely attempts to ensure the 'perks' that go with the job. This view was articulated by highly paid firm's representatives and a director, who, during conversations with me, seemed to subscribe to the sporting theory of tax evasion: at an informal level they appeared to be engaged in a battle to 'beat the taxman'. This is consistent with a negative view of personal tax as intrusive and burdensome.

Where lower paid employees are concerned, many justifications offered for tax fiddles also emanate from the British tradition of

hatred for taxation. But, in these instances the justification which is uppermost involves a combination of being underpaid whilst overtaxed at the same time. Tax fiddles are therefore justified as a means of supplementing low wages, and thus become part of the job (Mars, 1982; Henry, 1978; Ditton, 1978). This is particularly relevant in the case of the hotel and catering trade and other low paid service sector employment. But tax fiddles in the form of moonlighting are popular amongst a variety of individuals in many occupations which they themselves define as underpaid. For instance, one junior school teacher (Tony) from the Midlands could only afford family holidays by supplementing his earnings through giving private tuition and selling houseplants (Guardian, 27.12.85). He justified his moonlighting by referring to being low paid and commented 'Illegal it may be, immoral it isn't'. Tony referred to the building up of a sense of 'community' through the exchange of favours in the black economy, a rationale which is used elsewhere (Gershuny and Pahl, 1980). Bill also referred to the favours done for his customers when he saved them money by doing jobs 'on the side'. Nevertheless, the use of justifications involving 'favours', community goodwill or 'morality' merely serves to conceal the essential illegality of tax evasion as well as its negative social and economic consequences.

A further defence offered for tax fraud centres upon the crucial role of the entrepreneur in national wealth creation. It is argued that the regulation of would-be entrepreneurs by the state serves to stifle the potential for creating wealth, and moreover may lead to the channeling of creative capacities into the arena of the black economy. For instance one I.E.A commentator advocated an end to government



controls relating to business premises, (which were seen as impeding the natural workings of the market), as this would enable people to

'start businesses in their own garages and encourage enterprising wives to do dressmaking legitimately in their front parlours. It is in such humble ways that many businesses start. As is well said:

"Inside every moonlighter there is a small businessman trying to get out".' (Vinson, 1980:67.)

But it has already been argued above that bona-fide traders are themselves prone to moonlighting. This disproves Vinson's assertion that moonlighting is only the prerogative of those who are, as a result of government red tape, prevented from becoming legitimately self-employed. Also worthy of note is the blatant sexism underpinning the image of 'wives' busily 'dressmaking' in front parlours. Not only are their activities and status sexualized, but they are also firmly located within a middle-class frame of reference. Commentators from the I.E.A. overwhelmingly support the interests of the entrepreneurial middle class, but clearly distinguish between this group and the 'new class of administrators, bureaucrats and quango members' who are anathema to the ideals of the liberal minimalist state in which the entrepreneurial spirit thrives (Burton, 1985:75). Burton sees society divided into the taxpaying and tax-consuming 'castes', entrepreneur businessmen belonging to the former caste, and the 'new class' belonging to the latter, (as all public sector employees are seen as a drain on national resources). His argument inevitably concludes in the justification of tax avoidance, evasion and the black economy as 'a form of "backdoor" tax revolt against tax-consumers' (ibid). The underlying theme remains that of the 'intolerable inquisition' which



personal taxation is seen to impose in a capitalist state, particularly in a 'Welfare State' in which taxpayers are seen to unwillingly subsidise yet more unproductive members of society - tax-consumers - in the form of the elderly, the sick, the handicapped, the unemployed and lone-parent families.

A logical consequence of arguments which stress the intolerable burden which taxation and state regulation imposes is to see tax evasion as at worst non-criminal and at best quasi-legal (Leigh, 1982). It is relegated to the level of 'victimless crimes...if they can be regarded as crimes at all' in the same vein as 'taking your clothes off on remote beaches' (Bracewell-Milnes, 1979:112). As will be seen below, this tolerance does not extend to those who fiddle state welfare benefits.

The 'intolerable inquisition' school of thought frequently sees the administration and collection of taxes not only as burdensome for the taxpayer, but also as an unwieldy system in itself. The cumbersome nature of the British taxation is therefore seen as partly responsible for tax evasion on two grounds. First, by unwittingly creating opportunity structures for fiddling on the part of certain occupational groups (for instance highly paid employees and small traders whose fiddles have already been described), who manipulate Revenue rules which are seen as too broad-ranging or sloppy. This view is allied to the 'sporting' perspective, mentioned above, which aims to discover loopholes in the tax system or to 'beat the taxman' by stealth. Second, the tax system is seen as encouraging evasion because governments unduly overburden the Revenues, (particularly in relation

to its scope and scale of operation), leading to inefficiency because staff and resources are spread too thinly.

One interesting variation on this second approach was evident in the assertion of one Revenue official who argued that the net of taxation was being cast too widely. He believed that if the tax thresholds were raised in order to bring taxation back to its' original role - to tax the wealthy - then 'you could begin to make sense of it' (O.V.S., 1985). Also, he argued, some of the poorer members of society would have the financial imperative to engage in the black economy removed. This may seem an optimistic view, (and, in the light of the 1988 budget, highly improbable), yet it is essentially a pragmatic one. Alternatively, this official privately believed, 'we may have to find a tax system which comes to terms with the black economy'. If this is the case then our present system of tax is, in his words, 'doomed'. Nevertheless, he argued that the complex and over-stretched nature of the Inland Revenue system is not in itself a justification for the evasion of tax, but rather is an enabling factor. In this respect he differs from Revenue critics who cite the very existence of the alleged 'inquisition', (in the form of 'oppressive' state taxation), as sufficient justification for fiddling tax. Instead he offers the alternative perspective of a system of personal taxation which taxes rich and (relatively) poor alike, and in so doing has become so unwieldy that cracks appear. These cracks in the system are evident both in the tax loopholes which unwittingly emerge, ripe for exploitation by those 'in the know', and in the prevailing moral vacuum surrounding the issue of tax evasion.

An example which illustrates such 'cracks' concerns the issue of income tax returns, which form the legal basis on which an individual's tax is assessed as well as providing the information on which such assessments are based. In recent years the frequency with which tax returns are issued has been drastically curtailed in an effort to bring about cuts in revenue manpower and resources. This has resulted in many taxpayers not receiving tax returns to complete for some 5 years or more. In such circumstances greater opportunity is offered to evade tax and the belief that one is not likely to get caught is strengthened. As one official noted,

'If you never get a return, do six weeks work for an extra £100 a week and nobody asks you anything, it's asking a lot to expect you to go and knock on the door of your tax inspector and say "can you give me a bill?"'.

Therefore the knowledge that the 'taxman' is unlikely to request declarations of income on a frequent or regular basis leaves the initiative with the taxpayer. Evasion can thus be represented as a crime of omission rather than commission by the perpetrator. Justifications in terms of 'They never asked me' are offered, thus denying the taxpayer's culpability and instead focusing on the Revenue's role as inquisitor, and the sporting challenge which this role offers to tax evaders. Effectively the legal and moral issues surrounding tax evasion are dodged in such rationales which assume that tax regulations are bureaucratic, intrusive, exist to be circumvented, and 'good luck' to those who can get away with paying less tax than should be officially charged on their income. But it is worth noting that the sporting approach to fraud does not extend to those who



defraud the D.H.S.S. for whom legal and moral considerations are uppermost in public discourse. As will be argued (in 2b) below, many of the justifications offered by benefit fraudsters themselves mirror those of the tax evader and yet their actions are perceived and treated very differently by regulatory agencies, and represented as qualitatively different acts in the public rhetoric.

## (2) Taxation and the stifling of incentives.

In a television interview in November 1985 Mrs Thatcher stated that the black economy was 'big, flourishing, thriving'. She went on to link this with the notion of incentives, an essential ingredient of successful 'enterprise culture' economics:

'What this means to me is this: that where people find a direct relationship between the money they get in their hands and the work they do, they not only do that work but they go out to find it and seek it. The enterprise is still there.'

(Thatcher, 'I.T.V. Weekend World', 17.11.85)

The fact that this 'direct relationship' between work and cash-in-the-hand was achieved through evasion of income tax was not regarded as significant. The belief that 'the enterprise is still there' marked a triumphant assertion of the spirit of the 'go-getting society' which Thatcher sees as her aim. The costs at which such aims are realised, in terms of widening gulf between go-getters and 'failures', and the losses in tax and V.A.T., are not part of her economic calculations. Simplistic notions of what constitutes financial incentives, and how individuals react to them, underlie New Right discourses. For instance,

the supply-side economics of the Reagan administration rest on assumptions which are evident in Thatcherism too:

'The basic case here was that the rich were not working and investing because they were receiving too little money and that the poor were not working because they were getting too much. The magic word was incentive - incentives for both the rich and the poor'.

(Galbraith in 'New Statesman', 25.11.83)

Social policy deriving from such theories has emphasised tax cuts for the rich and increasing stringency in welfare benefits for the poor (see Chapter 6 for an analysis of the 1988 budget in these terms). But there is no evidence that the concept of 'incentives' upon which such policies rest is a valid one. According to Break (1957), higher rates of taxation may in reality serve to force most income earners to work harder in order to maintain their living standards. When applied to the actions of individual earners the alleged disincentive effect of taxation is therefore impossible to prove. It may well be the case that high rates of tax act as a spur to effort rather than as a disincentive (Break, 1957). Alternatively, recent Treasury-sponsored research concluded that the 'income-effect', felt by higher income-earners when their taxes are reduced, may well produce feelings of financial satisfaction which cancel out any effort-inducing 'incentives' effect (Guardian, 24.2.88). Nevertheless, the rhetoric of the incentives school of thought remains both popular and persuasive in spite of the internal weaknesses of their argument. The simplicity of this theory appears to some commentators to elevate its tenets to a 'natural' law of sorts. For instance, a team from the Institute of

Fiscal Studies researching the effects of tax reform on incentives asserted that

'What matters most in any tax system is the "marginal rate" - how much tax you pay on each additional pound of income - since it is this which governs the reward to extra effort....The lower the marginal rate the greater the incentive.'

(Robinson, Smith and Stark, Guardian, 1.10.86)

Despite the very real difficulties with empirically proving the disincentive effect of (allegedly) high rates of taxation, many justifications offered by tax fiddlers for their actions draw heavily upon the incentives argument. All of the small businessmen I interviewed believed that they were over-taxed, and amongst higher paid employees the perceived erosion of their 'perks' by the taxman had contributed to the mythology of penally high taxation and the stifling of incentives. Taken together such beliefs offer individuals excuses for their tax fiddles through a reassertion of 'enterprise', albeit illegally, through working in the black economy or through the routine fiddling of personal tax.

A logical corollary of the incentives theory held that higher wages must be paid to those whose marginal rates of tax were high in order to maintain their incentives to effort and so retain highly paid (and, arguably, highly important), employees. But this view was dismissed by the Inland Revenue Staff Federations' (I.R.S.F.) General Secretary, Tony Christopher, who considers it a 'facile' approach. He argued that there was no evidence to suggest that since top rates of tax had been reduced to 60% there had been a corresponding reduction either in the salaries of higher rate taxpayers or in their untaxed benefits (O.V.S.,



1985). If the incentives argument were accepted and if individuals responded logically, precisely and predictably to changes in rates of taxation, then a reduction in tax would have inevitably led to a reduction in remuneration necessary to maintain incentives. But clearly the tax cuts (for richer employees), introduced by the Thatcher government have not given rise to a rational downward re-adjustment of upper wage levels - rather, the reverse has been the case. As Christopher argues, the incentives issue is invoked selectively to reassert certain political and economic values rather than to explain and adequately predict the workings of a strictly co-ordinated system of wages and tax rates.

To summarise, the notion of incentives is a problematic one. Individuals cannot be reduced to the simplistic level of economically programmed units who respond accurately and surely to given stimuli in terms of their earned income and tax due. Break argues that rationality may involve responding to higher taxes by working harder and Christopher indicates that the incentives issue is not invoked where downward variations in tax are concerned, (although in the case of Supplementary benefit claimants, as will be seen below, incentives do take on this negative interpretation in requiring downward variations in benefit levels to maintain work incentives!).

Another consequence of accepting a New Right or supply-side logic on incentives is to see the black economy as a thriving sector of the economy and, moreover, a sector which potentially holds the key to an economic recovery in that it is based upon 'go-getting' entrepreneurship. In addition to Mrs Thatcher, other exponents of this view include the I.E.A. and some individuals from the business

community. For instance Michael Edwardes offered a novel interpretation of the black economy when he asserted that it was reducing unemployment:

'there could be a couple of million who at the moment are in the unemployment statistics many of whom - not all perhaps - but many of whom are probably employed in one way or another.'

(Edwardes, Guardian, 31.10.85.)

It is difficult to see the logic of such arguments which on the one hand see the black economy positively as evidence of 'enterprise', yet on the other hand see benefit claimants who fiddle as 'scroungers' whose enterprising efforts to maximise their rewards should be roundly condemned. It seems that 'effort' may be encouraged amongst the rich, even if tax fiddles are a consequence, yet similar efforts by the poor in their forays into the black economy are only acceptable if they are held to reduce the unemployment statistics. As Rawnsley (1985) argues, the realities of the black economy conflict with political demands to crackdown on social security scroungers and this leads to a 'benign neglect of those who have "got on their bikes" and joined the underground army'.

One telling criticism of this simplistic view of incentives and taxation is that the explosion of wealth creation promised as a consequence of tax reductions cuts and the restoration of effort incentives has, in the mid to late 1980's, simply not materialised. Loney (1986) quotes a leading American economist, Lekachman, who poses this question:

'Why, it might legitimately be asked, haven't these amply rewarded managers and investors already unleashed the investment boom needed



to renew economic growth and make America great again?'

(Loney, 1986:21)

In the case of the British economy a similar question can be raised as there is no evidence that tax cuts have promoted wealth creation, save for increasing the personal incomes and wealth of the rich themselves. Furthermore, if policy makers place a high priority on economic expansion, then it is difficult to stop short of welcoming the expansion of the black economy, which according to Thatcher and Edwardes, constitutes an area of 'enterprise'. In so doing, such advocates of incentives are condoning tax evasion and an increasingly skewed distribution of financial rewards in our society, which is not being determined by social policy so much as by the vagaries of the market, allegedly through the operation of effort-incentives and commensurate rewards.

Critics argue that the black economy is 'neither the answer to the financial problems caused by unemployment nor an incentive to the creation of wealth through individual enterprise' (T.U.C., 1983). The T.U.C. support this view with Inland Revenue data which demonstrates the detrimental effects of the black economy on honest traders and taxpayers: their prices may be undercut by unfair competition, the honest taxpayer effectively subsidises the dishonest earnings of the fiddlers (T.U.C., 1983:3). But such legal and moral issues are frequently obscured by straightforwardly 'market' solutions to problems of economic growth. For instance, the assertion that 'people prefer the lowest price for given quantities or qualities of goods' and references to the 'modern economics of public choice' deny the importance of social justice and focus instead on the inevitability of tax evasion



which results from consumer choice and the inner logic of the free market economy (Seldon, 1979:15).

The incentives debate is of central importance to this thesis in two respects: first it informs public discourse on the nature of our tax system, which as a result is frequently perceived as stifling incentives through penal rates of taxation. Second it therefore provides individuals with ready justifications for illegal tax evasion, which can be translated into the logical response of long-suffering taxpayers who are, after all, only trying to create wealth for the nation and exercise the 'modern' economics of public choice - the choice to earn and not to pay tax!

### (3) 'Everyone does it'

Guesstimates of the size of the black economy seem to support the notion that tax evasion is indeed ubiquitous. It appears that although not exactly 'everyone' is resorting to tax evasion, a sizeable proportion of taxpayers are. According to Inland Revenue data (discussed in Chapter 1(3) above), the black economy may constitute 7½% of G.D.P.. Furthermore, it is estimated that one in four persons may have undeclared income of £500 p.a. (Levi, 1982). The willingness of individuals to evade tax was demonstrated by Deane et.al. (1981) whose survey on attitudes towards income tax (conducted in Fife, Scotland), found that almost 40% of respondents were morally 'neutral' where small scale tax evasion was concerned. Furthermore, 62% of the sample believed the level of income tax to be 'much too high', and a quarter thought that all or most taxpayers have opportunities for small 'safe' evasions. More telling still, 66% felt that 'all or most taxpayers

would exploit such opportunities if they had the chance'. In this way tax evasion is seen as relatively safe, neither good nor bad', justifiable in terms of the high level of taxation and a logical course of action for the average taxpayer (ibid:39) The message behind this and similar research is simply that 'tax evasion is a common activity in the U.K., and is widely regarded as morally acceptable' (ibid:57)

However there is a lack of consistency in arguments which suggest that because tax is too high individuals will inevitably seek to evade it, and because everyone is therefore fiddling tax then such actions cannot be thought reprehensible, as millions of taxpayers cannot be 'wrong'. The alleged popular approval of evasion is therefore underpinned by other excuses. Justifications which involve the plea that 'everyone is doing it' depend in turn upon other rationales offered for tax fiddles, namely the intrusive, burdensome and excessive demands of the Inland Revenue and the stifling of incentives described above. For instance, tax ghost 'Jim' is quoted by Rawnsley (1985) as being 'pissed off' with many aspects of British society - 'appalling pay and boring work', periodic unemployment and the knowledge that 'everyone else is on the dodge anyway'. He added that the entire economy would collapse without the moonlighters and ghosts who undercut 'legit' firms' prices and so save the punters money. Similarly Bill had argued that building jobs which did not 'go through the books' were doing the customer a favour, but working life without the black economy was inconceivable to him. The justification that 'everyone was on the fiddle' was implicit in the nature of his daily work. An alternative perspective was, however, offered by the director of a large building firm whom I spoke to: he argued that the 'cowboys' and fiddlers were



undermining the whole building industry because 'legit' firms were being squeezed hard in their efforts to compete with unrealistic work estimates which did not account for tax and V.A.T.. In the long term, he argued, unemployment and shoddy workmanship would result.

Nevertheless the rationale that 'everybody is on the fiddle' (when coupled with other justifications described above), is a crucial means by which individuals can render their own illegal acts explicable and excusable to themselves and to others. With a shrug of the shoulders, most tax fiddlers I spoke to justified their actions in this simple and seemingly unambiguous manner. But considerable ambiguity is evident if their assertions are examined in more detail.

First, this justification rests upon the belief that a certain level of tax evasion is both understandable and tolerable. However it remains unclear exactly how this 'acceptable' level is determined. In practice, the acceptable fiddle seems to be delimited by normative thresholds which mark the tolerable scale and frequency of evasion, but what level of tax fraud can be seen as both acceptable to others and justifiable to the fiddler? It can be argued that perceptions of the relative seriousness of tax evasion shifts according to the amount defrauded. For instance, both Deane (1980) and Walker (1978) note that whilst small-scale tax evasion may not be perceived in negative terms, evasion involving 'larger' amounts may well be. As Deane implies, this shift in what is considered acceptable probably has far more to do with 'moral attitudes' than with any rational-economic calculations concerning increased risks of discovery and the subsequent penalties that may be imposed by the Revenue (Jowell and Witherspoon, 1985). The essential problem remains one of how boundaries are set upon the nature



and scale of tax evasion which 'everyone' is felt to be justified in committing.

Second, it seems probable that a 'moral' element operates in setting boundaries on acceptable fiddles. According to Lewis (1982) this moral element may derive from group pressure, just as the impetus to evade tax in the first place may come from workmates. Lewis argues that individuals agree to 'play the game', (particularly if the rest of their workmates are doing so), but take care not to 'go too far':

'It seems probable that there is a subculture of tax evasion

governed partly by normative considerations.' (Lewis, 1982:184).

And so pressures, both to evade tax and to justify it, may differ according to the opportunity structures offered by particular occupations. Tax evasion is not a homogeneous phenomenon. But the justification that 'everyone is doing it' simplifies the complex reality of evasion and overlooks significant differences that exist in the scope and scale of the opportunities individuals have to fiddle. It may well be the case that this excuse merely legitimizes tax fraud as ubiquitous in order to conceal the considerable gains made by certain occupational categories - highly paid employees and the self-employed being the most noteworthy - at the expense of the honest taxpayer.

Another important thread running through such justifications as these is the belief that it is 'natural' to want to pay as little tax as possible and so to evade tax wherever practical. This is most clearly articulated in the work of the I.E.A. who lament that, in relation to avoidance and evasion of tax, 'the trouble is that it is impossible to change human nature' (Seldon, 1979:40). In discussing the Revenue's anti-evasion efforts Lord Houghton similarly argues that 'it

is simply no good yearning for the impossible' (Houghton, 1979). Clearly tax fiddles are once again being represented as an immutable part of human nature. But it would seem that such commentators ignore the cultural, political and economic conditions under which people's 'human nature' is created. The values and ideals of modern capitalism, (focussing on wealth accumulation and 'free enterprise'), which are utilized in justifications for tax evasion are by no means 'natural'. They are ideologically constructed through a variety of interlocking social institutions (see Chapters 3 and 6). But, significantly the same rationalizations, in terms of 'human nature', fail to dominate in discourses surrounding welfare benefit fraud. Whilst it is asserted that it is natural for taxpayers to maximise their financial gains, illegally, from the state through tax fraud, this justification is not invoked to explain supplementary benefit fraud, which is rather represented as motivated by greed and idle dependancy (see section 2(b) below and Chapters 3 and 6).

Nonetheless, it is the very simplicity of these excuses for tax evasion, drawing upon notions of 'human nature', which contributes to their potency. In this way, to argue that everyone fiddles their taxes is to do no more than to state the obvious and in so doing to rebuke critics, as if to say 'I fiddle my tax, so does everyone else. So, what?' Justifications stressing the ubiquity of tax evasion and its roots in commonsense logic therefore serve to displace 'the problem' of tax evasion, (if indeed one exists), upon the allegedly few honest taxpayers and the agencies of regulation. Responsibility for the commission of an illegal act, the negative economic and social



consequences, as well as the divisive implications for social policy are all bypassed in this most common of all excuses.

Research into workplace and white-collar crime has demonstrated the breadth and depth of tax fiddling (Henry, 1978; Mars, 1982; Chambliss, 1978; Pearce, 1976; Leigh, 1982; Levi, 1982; Levi, 1987). Such evidence confirms the fears of the National Federation of Self-Employed and Small Businesses that tax evasion is a 'national disease' and Britain is riddled with it. Even as a critic of evasion it is, therefore, possible to unwittingly support the view that everyone is indeed on the fiddle. But acknowledgement of such observations does not inevitably lead to the conclusion that it must be sanctioned. Just because fiddling taxes, in the words of one official, 'goes back to the bible' it cannot automatically be legitimated. But the belief that everyone else is fiddling makes it far easier for tax fraudsters to justify their activities to themselves and also to those around them who share a similar commonsense idea that if evasion is the norm, then they are not deviants.

#### Summary of the justifications offered for tax fraud

As argued above, (see Chapter 3), responses to and justifications for tax evasion must be located within the context of the contradictory principles which underlie our understanding of taxation (and welfare). This part of the Chapter has analysed the common themes which emerged from an examination of the justificatory rationales offered for tax fraud. The rationales that taxation is in itself an intolerable inquisition and that tax stifles personal effort are both closely related. They both adopt a liberal conception of a minimalist state, a



state geared primarily to the goal of capital accumulation. Within such a context it becomes possible to rationalise tax evasion as no more than an excessive zeal in the pursuit of the accumulation of wealth, which is, in turn, seen as the basis for the prosperity of society as a whole (Bosanquet, 1983). Against this ideological background, the Inland Revenue may be perceived as stifling wealth creation and minimising personal (economic) 'freedom' by imposing personal taxation. Evasion of those taxes thus becomes transformed in such discourses as a form of individual rebellion against the power of the intrusive state. For example, I.E.A. commentators regarded those who avoid and evade taxes as crusaders against 'bad law' and against the allegedly totalitarian spectre of redistributive taxation (Shenfield, 1968; Seldon, 1979; Bracewell-Milnes, 1979).

The social philosophy of individualism and ideology of the free market thus dominate justifications for tax fraud. At a personal level, rationales may be supplemented by ex-post facto justifications, such as 'everyone does it'. Although a powerful commonsense rationalisation, it is clear that everyone does not evade their taxes, otherwise the modern capitalist state would be unable to function. But the contradictory demands of the principles of citizenship (to pay one's taxes), and free market individualism (to generate and accumulate wealth), remain unresolved (see Chapters 3 and 6). As a consequence, tax fraud can only be successfully justified if it remains within certain normative boundaries - these boundaries are often delineated by reference to the 'acceptable fiddle' and notions of what can acceptably constitute 'shrewd business practice'.

## (2) SUPPLEMENTARY BENEFIT FRAUDSTERS.

### (a) TECHNIQUES.

Where supplementary benefit fraud is concerned, it is difficult, as in the case of tax fraud to separate the techniques of the fraudsters from the justifications which they offer for those techniques. In the eyes of many benefit fraudsters their illegal actions are only understandable in terms of the material conditions of disadvantage, poverty and degradation in which they live out their lives. In making ends meet as best they can, some claimants may break D.H.S.S. regulations and, implicitly, the law. In order to examine precisely how such frauds are committed, it is necessary first to arrive at an analytical framework which will contribute to an understanding of what precisely is involved in the commission of supplementary benefit fraud. For this purpose, fraud techniques will be examined by categories which reflect the D.H.S.S.'s own analysis of detected fraud.

The statistics in Table 4: 1 below represent the numbers and types of detected frauds considered for prosecution in the year ending 12.2.85 and demonstrates the relative prevalence of key types of offence. Although it should be remembered that such statistics can never give a full picture of the extent of benefit fraud (because obviously a great deal goes undetected), they nonetheless give a useful indication of what the most popular forms of (detected) fraud are. Clearly the most widespread form of fiddling is working while drawing benefit, which constitutes almost half of all cases considered for prosecution in 1984/5. The second most prevalent form of fraud, accounting for over 12% of cases considered for prosecution, also relates to earnings, but in these cases it is the income of a dependant, (usually the claimant's wife) which is not declared.

**TABLE 4: 1    SUPPLEMENTARY BENEFIT CASES CONSIDERED FOR PROSECUTION**  
**IN 1984/5 - IN ENGLAND, SCOTLAND AND WALES.**

<u>OFFENCE</u>	<u>TOTAL OFFENCES</u>	<u>OFFENCES AS % OF TOTAL</u>
(1) Earnings, claimant.	24,513	49%
(2) Earnings, dependant.	6,086	12.2%
(3) Fictitious desertion and Living together cases.	3,680	7.4%
(4) Itinerant fraud.	3,347	6.7%
(5) Total of 'other' static fraud.	3,129	6.3%
(6) Rent and other outgoings.	2,619	5.4%
(7) Composition of house hold; child or adult not maintained or not legally dependant.	1,923	3.9%
(8) Other resources	1,400	2.8%
(9) Claimant or dependant in receipt of other benefit.	1,265	2.5%
(10) Undeclared payments from Liable Relative.	963	1.9%
(11) Forged or altered documents.	650	1.3%
(12) False expenses claim	133	0.26%
(13) Aid and abet.	121	0.24%
(14) Collusive employer.	46	0.1%
<b>TOTAL</b>	<b>49,947</b>	<b>100%</b>

(Source: D.H.S.S., 1986 p.c.)

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The third category is a particularly interesting one as it refers overwhelmingly to the frauds of female claimants who are lone mothers. Fictitious desertions (examined in depth below), occur when a woman falsely alleges that her husband (or cohabitee) has deserted her. In this way she may claim supplementary benefit, falsely, in her own right. 'Living together as husband and wife' cases, (abbreviated to L.T.H.W. in D.H.S.S. jargon), are a hotly disputed form of fraud because, as will be seen below, they assume that a financial relationship exists where a domestic and/or sexual one does. In this way a woman who fails to admit the existence of



such a domestic and/or sexual relationship and who continues to claim benefit in her own right may be guilty of fraud. Taken together, cases of fictitious desertion and L.T.H.W. amounted to 7.4% of cases considered for prosecution in 1984/5. But, as will be seen below, such statistics may conceal far greater numbers of women who have been informally deprived of their supplementary benefit by special fraud units, who focussed on these forms of fraud but adopted a 'non-prosecution policy' (See Chapter 5(2)).

Fourth in the league table of offences is 'itinerant fraud'. This involves fraud by individuals who claim benefit because they have 'no fixed abode', but may visit different supplementary benefit offices in the same day making (false) claims at each. In recent years there has been an increase in this form of fraud which may be compounded, or even initiated, by unscrupulous landlords of cheap bed and breakfast accommodation to whom itinerants are often referred by Social Security offices (see the discussion of Operation Major below).

The fifth category of 'other static fraud' encompasses a variety of fiddles ranging from multiple claims to falsely alleging a lost giro or purse on benefit payday. Some of these fiddles together with category eleven, (forged or altered documents), are subsumed under the conglomerate term 'instrument of payment fraud' where such frauds involve altering, forging or feigning the loss of benefit order books or girocheques. Other categories of fraud refer broadly to two kinds of fiddle: first, to specific omissions from a claimant's declaration of resources (such as payments of maintenance from a liable relative, or an occupational pension); and second, to specific false claims for allowances (whether for dependants, rent or expenses against part-time earnings).

The analysis of fraud techniques which follows will utilize the broad headings of fraud categories already discussed, although some of these have been amalgamated or simplified for ease of presentation:

- 1) Working and claiming.
- 2) Liable Relative fraud: fictitious desertion and living together cases.
- 3) Itinerant fraud.
- 4) Instrument of payment fraud.
- 5) Other fiddles.

1) Working and claiming.

As explained in Chapter 2(b) above, people in full-time work cannot normally receive supplementary benefit (Lynes, 1985). Because it is means-tested, payment of supplementary benefit depends upon D.H.S.S. officials' calculating, in accordance with regulations laid down by parliament, what the total financial requirements of a claimant (and family if applicable) are. Then it is necessary to deduct from this figure of financial 'requirements' any income the claimant (and family) receives from any source, (for instance from other state benefits, part-time earnings or occupational pension schemes). Consequently any alteration in the income of the 'assessment unit', (the claimant and his/her family), may affect the amount of benefit payable under the Social Security regulations. And so the claimant and his/her spouse can legitimately work part-time so long as their income is declared and then deducted, (after appropriate 'disregards' have been allowed) from their weekly benefit payments. The fiddle involved in 'working while claiming' is therefore largely self-explanatory, with the notable exception that some claimants believe they are fiddling merely



by working part-time, unaware that this in itself is not fraudulent. It becomes so when a claimant makes a false declaration - either by stating they do not work at all, or by under-declaring the amount earned.

As the table above indicates, working while claiming is the most prevalent form of fraud amongst supplementary benefit claimants, and on the surface seems by its very nature to confirm the worst 'scrounger' stereotypes. It is argued that there is indeed plenty of work available to those who genuinely seek it: the numbers of claimants who do work allegedly indicates this. Furthermore, the greed of benefit fraudsters is played upon by those emphasising the extent of this type of fraud. After all, it is argued, they have the advantage of high levels of state benefits and wages to boot! (Golding and Middleton, 1982). But what needs to be examined are the specific types of work often involved in such frauds, and the techniques used by claimants trying to (successfully) fiddle by these means.

'Low paid, insecure work and social security fraud fuel each other and feed off each other.' (Harrison, 1983:147.)

This statement refers to a description of life in Hackney where, the author argues, inadequate benefit levels and low pay fail to meet the social needs of individuals and families in the area. But this analysis is not only confined to the inner city areas so well described by Harrison. The strong link between casualised, low-paid and part-time work, (often in the black economy), and social security fraud is acknowledged as having more than local significance (Harrison, 1983; Mars, 1982; T.U.C., 1983). Nevertheless, the double-bind which working supplementary benefit claimants suffer must be emphasised. First, as a T.U.C. report noted, those who work in the black economy suffer inferior conditions and rewards:



"Black" earnings are generally low as employers are often able to cut the price of labour without fear of repercussions from a vulnerable and unco-ordinated labour force. Training and safety requirements tend to be neglected and therefore workers are often unqualified and uninsured.' (T.U.C., 1983:3)

Second, both the Inland Revenue and Supplementary Benefit Commission, (prior to its abolition in 1980), acknowledged that those who succeed in the black economy were likely to be those groups who succeed in the formal economy, (D.H.S.S., 1979; T.U.C., 1983; Donnison, 1982). In other words, benefit claimants without the facilities and contacts of a work environment find themselves pushed further down into dependence upon less than scrupulous employers who are well aware of their plight.

For example, an analysis of local newspaper coverage of supplementary benefit frauds in the Telford (Shropshire) area indicates that employers from the service sector, such as contract cleaning firms, rely upon a casual, temporary workforce which is readily available from the ranks of the unemployed. Moreover, those unemployed individuals who seek such casualised and irregular work are unlikely to cease claiming benefit when starting work, because of the low level of wages that such work offers and the characteristic instability of the job itself. It is therefore apparent that some employers gain a great deal economically by using a willing reserve army of labour, drafted in and disposed of at will, and prepared to work for wages that are patently too low to provide a sole family income. At the same time, these employers provide D.H.S.S. investigators with an easy 'catch' of fiddling claimants, yet appear to receive no reprimand or sanction themselves for their collusion in social security fraud. This is despite the assertion made by several fraudsters prosecuted

by the D.H.S.S. that employers are well aware that they are hiring claimants. According to one fraudster, his employer even suggested that he use a false name in an attempt to avoid detection (see Chapter 5(2) below).

There exists a link, then, between the black economy in general terms and the most popular form of supplementary benefit fraud - working while claiming benefit. Clearly those avenues which enable tax fraud, on the face of it, enable this kind of benefit fiddle too. But it must be remembered that, as in many other respects, benefit claimants are marginalized, socially and economically, and for the most part fail to 'cash in' on the black economy to the same extent as the employed moonlighters, ghosters and tax evaders do. As Donnison argues,

'Since you need skills, confidence and contacts to make alot of money from concealed jobs, most of this fraud is committed by the working population, not the people on social, security payments.'

(Donnison,1982:70-71)

At the same time the double-bind already described serves to render claimants who fiddle more vulnerable than moonlighting employees, because the claimant's economic position is weaker and involves greater dependence on collusive employers and, as will be argued below, greater likelihood of being investigated by regulatory agencies.

Perhaps because of these harsher facts of life for claimants on the fiddle, strategies to minimise the chance of getting caught are uppermost in the minds of many fraudsters. For instance, most claimants I interviewed mentioned that it was certainly preferable to get work which did not involve national insurance 'cards', which would, they felt, increase their chances of getting caught. For this reason many female claimants



resort to home-working, which is notoriously badly paid yet feels 'safe' from the claimants' perspective. Jobs involving sewing skirts and stuffing soft toys therefore keep women claimants in the home, engaging in monotonous yet domestically suitable tasks for very low wages. Marginalization, exclusion and exploitation all reinforce each other, and make comfortable profits for employers, arguably on the backs of both taxpayer and benefit claimants alike through the undercutting of legitimate firms and adequate wage levels.

Other jobs which involve a minimum of record keeping on the part of employers are equally convenient for working claimants. Seasonal work, whether on farms or the holiday catering trade, offers opportunities for claimants to earn cash, albeit spasmodically, on a fairly anonymous basis. In reality they remain vulnerable because anonymity is illusory: as seasonal work is 'targetted' as a likely area of fraud, employers are often approached by investigators. Nevertheless, this type of work remains popular despite often appalling conditions. For example, in rural areas 'spud bashing' (harvesting potatoes), and fruit-picking involves back-breaking labour for small reward. It seems a measure of the desperation of benefit claimants that such unrewarding labour is sought at all.

Jobs such as 'spud-bashing' seem to be allocated on the basis of willingness and being 'in the know' as a result of a network of personal contacts. Although seasonal workers such as these now have to fill in more paperwork than previously, giving false names and information may simply circumvent attempts to keep track of casual employees. Employers provide transport to farms, collecting workers from certain pick-up points, and, according to fraudsters interviewed, rarely 'grass' on workers known to be fiddling social security. As will be seen below, (Chapter 5(2)), the



anonymous tip-off is the greatest enemy of these fiddlers. Once approached by investigators, employers are obliged to comply and give full accounts of dates worked by claimants and wages paid to them.

In keeping with the theme of casualisation and minimum record keeping, the building and catering trades offer scope for supplementary benefit claimants to work on a part-time or irregular basis. As mentioned above, claimants appear to form a source of menial labour at the lower end of the occupational ladder. They are more likely to work as general site labourers than skilled plasterers, plumbers, bricklayers and carpenters. In the catering and licensed trades they are likely to work as part-time bar staff, waitresses and cleaners. For female claimants these jobs are more readily combined with the demands of bringing up infants and school-age children. A relatively recent development enabling additional commission-based employment for women is the 'party plan' selling scheme. One woman, 'Terry', indicated to Harrison (1983) how such schemes worked:

'I've always got to do casual jobs, with no cards. If I did a regular job with cards, I'd get caught. I started doing demonstrations for a pottery firm - you know, in people's houses. ....You had to use your own car and your own petrol. You didn't get any wage, just commission, 12%, on what you sold. If you damaged any of the pots, they took it out of your commission.'

(Harrison, 1983:152)

It is significant that Terry later worked as a barmaid and homemaker, with little financial success and much physical and emotional strain. One lone mother of three I interviewed emphasised the fear of getting caught:

'Working is dodgy now, with more tracing through national insurance cards. There seemed more casual work in the past.'

Speaking, (in 1986), in an area of high unemployment, she clearly believed that for her, the opportunities to work 'on the side' were limited. This is borne out in evidence which suggests that

'..the jobless blackspots of the North are the least fertile ground for the hidden economy. If it is a disease, it is more contagious in the still bouyant South than in the cash-starved North.'

(Rawnsley, 1985)

At the same time there is evidence that, in national terms, casualised, part-time and low-paid work is increasing as the current economic recession deepens (Low Pay Unit, 1987). In addition the growing trend towards payment by commission rather than wages or salary has eased the financial and administrative 'burden' on employers, who are no longer responsible for the deduction of tax and national insurance: persons receiving commission only are usually classed as self-employed rather than as employees. At the same time, commission-based jobs (whether selling pottery, underwear, double-glazing or collecting debt and hire-purchase payments), appear to offer a casualised form of 'self-employment' for claimants looking for work on the side. It seems to be popular because of flexibility in hours worked and minimal official record keeping. But once more it can be argued that this form of work serves the interests of the firms and agencies involved at the expense, literally, of individuals who would surely rather seek secure, protected, legal, full-time employment.

If it is the case that economic recession is creating casualised, vulnerable and part-time jobs, then it seems that supplementary benefit claimants who seek to add to their income (illegally) by working on the side will be increasingly forced into these lowest paid, least secure and least desirable jobs available in both the formal and informal economies.



This situation serves to exploit and further marginalise benefit claimants who fiddle, and gives rise to the added fear of financial and possibly custodial punishment should they get caught.

It is apparent from the discussion so far that the vast majority of cases of benefit fraud by 'working while claiming' are both unsophisticated and risky, involving less 'technique' on the part of the fraudster than many of the tax frauds discussed above. But one fraudster interviewed utilized many skills in the commission of working and claiming fiddles which indicate a level of sophistication on a par with tax fraud. Mark is a well educated young man living in London. Because of the high cost of living, he found himself unable to earn enough money, (on a regular basis), to rent adequate accommodation. However, supplementary benefit payments coupled with earnings enabled him to live decently. He managed to avoid detection by the D.H.S.S. by using the complexity of the benefit system and its overworked staff to his own advantage. His technique involved working full time in a variety of jobs: office work, though poorly paid, was acceptable so long as he could leave the office to sign on fortnightly. At the time of the interview (in 1986), he was working as a painter and decorator which, although physically demanding, offered better pay.

He explained that although contact with Social Security offices is minimal, particularly since home visiting has all but ceased for new claims, in time 'the D.H.S.S. paperwork catches up with you'. If he received a letter requesting him to attend the local Social Security office for interview, he felt it wise to cease claiming, but took care to do so in an 'above board' manner. He explained to the D.H.S.S. clerk, (falsely), that he had written to them 'over a week ago' to let them know he had found work, and went on to query 'Haven't you had my letter?' Mark used a pleasant



approach to D.H.S.S. staff in which he sympathised, (genuinely) with their intolerable workload which, he said, must explain the 'mislaide' letter telling them of his changed circumstances. No action was ever taken against him, although if he felt that the suspicions of the D.H.S.S. or Inland Revenue were aroused, (official letters requesting details of former employment or past addresses, for instance), then the easiest solution was to 'disappear'. This meant changing his address on a fairly regular basis, but he found no problem in so doing. Mark's charm and intelligence clearly enabled him to work and claim benefit in a systematic manner without attracting the attentions of D.H.S.S. officials. By playing the system, realising its weaknesses, Mark has so far evaded detection and the attentions of the Inland Revenue too: he remains technically a 'ghost' as well as a working claimant. Mark's appearance and demeanour did not fit the 'scrounger' stereotype, but his actions would certainly be represented by many commentators as evidence of the cunning and greed attributed to that stereotype. Significantly, his justifications for fiddling are consistent with those offered by all other claimants I spoke to who were 'working on the side', and they derive from frustration, poverty and hardship rather than from greed (see section 2(b) below).

## 2) Liable relative fraud: fictitious desertion and living together cases

Before analysing this form of fraud it is necessary to outline how supplementary benefit entitlement for a family, (consisting of husband, wife and dependent children), is calculated. As already mentioned, the family forms the key assessment unit upon which the D.H.S.S. bases its calculations of benefit payable (Chapter 2(b)). If a husband and wife separate, they become two assessment units, and each can then claim

benefit for him/herself and any dependant children living with him/her. Similarly, in the case of an unmarried parent, s/he can claim for his/her needs and those of the child. But under the Supplementary Benefits Act 1976, a man is legally liable to maintain his wife and children, (including illegitimate children), and in the same way a wife is liable to maintain her husband and children (Lynes, 1985). For this reason the D.H.S.S. recover as much money as possible from the 'liable relative' in order to minimise the amount paid from public funds. As a result, when a separated wife claims benefit for the first time she may be

'questioned in some detail about the circumstances of her separation. Such inquiries may be necessary to enable the D.H.S.S. to decide what action, if any, should be taken to induce the husband to fulfil his obligations.' (Lynes, 1985:212)

Liable relative fraud may take two forms, both of which are enabled by the D.H.S.S. emphasis upon the ideal-type nuclear family as the key assessment unit for the purposes of supplementary benefit :

First, fictitious (or 'collusive') desertion.

This may arise when

'the wife denies knowledge of her husband's whereabouts although he is in fact living with her, or his temporary absence has been arranged to enable her to claim benefit.' (ibid)

The couple therefore collude in falsely stating that desertion has taken place, so enabling the 'lone' parent to claim benefit in their own right thus (fraudulently) increasing the family income.

As will be seen below, the justifications for this form of fraud are financial. It is frequently the case that collusive desertion occurs in times of financial difficulty for families. It offers the family involved



an extra source of income, supplementary benefit, to pay off accumulated debts and so provides a temporary escape from dire money problems. Once again, this form of fraud can be seen to arise from desperation rather than greed.

Second, cohabitation.

Cohabitation, more recently termed 'living together', cases can involve more complex issues which arise from the assumptions made by the D.H.S.S. concerning such relationships. A couple's reasons for living together are not necessarily economically motivated, yet the D.H.S.S. assumes that an economic relationship exists between couples whom they adjudge to be 'living together as husband and wife'. Within the welfare state, as elsewhere in British society, the relationship between men and women is assumed to be that of breadwinner and dependant respectively (Smart and Smart, 1978; Wilson, 1977). The error of such assumptions is evidenced by one lone mother of three children I interviewed, Carol, who had lived with her (divorced and working) boyfriend:

'It wasn't wrong. He didn't give me any money so my committments  
still stood and I needed my benefit. It was really me keeping him!'

(Carol).

Clearly the breadwinner/dependant relationship did not exist in this case. Nevertheless, had the D.H.S.S. been aware of her domestic situation, a 'husband and wife' relationship, (based on subjective assessments of shared expenses, stability of the relationship, 'public appearance' and sexual relations), would have been assumed (Esam et.al., 1985; Lynes, 1985). As a result Carol's benefit order book, together with her financial independence, would have been confiscated despite the fact that the man she lived with made no financial contribution to Carol or to her children.



In the eyes of many feminists, the living together rule which creates this category of fraud is in itself tantamount to assuming payment by men for women's sexual and domestic services, a form of prostitution (Wilson, 1983; Fairbairns, 1985). But such rules are perfectly understandable when located within the operation of a Welfare State based upon the principles of Beveridge. These principles need to be examined in order to place in political, economic and social policy context the treatment of women on supplementary benefit in general, and that of female benefit fraudsters in particular.

The Beveridge Report published in 1942 provided the blueprint for the postwar Welfare State. Whilst recognising the importance of women's arduous and unpaid labour in the home it nonetheless rested upon pre-war assumptions concerning the family (Wilson, 1980). Distinctions were drawn between married and unmarried women:

'The attitude of the housewife to gainful employment outside the home is not and should not be the same as that of the single woman.'

(Beveridge, 1942:49)

In putting a 'premium on marriage' Beveridge saw married women's role as 'ensuring the continuance of the British race and of British ideals in the world' (ibid:52). Insurance classes reflected distinctions between married and single, men and women. In terms of benefits paid out, single men and women were treated equally, but benefits for married persons were gender-specific (Allatt, 1981). The postwar welfare consensus rested upon a belief in the contribution principle which, in turn, assumed not only female dependancy, but also male life-long employment. Sickness and unemployment were assumed to be transient, merely short breaks in the breadwinner's insurance contributions. By the late 1970's, economic stagnation and mass

unemployment had seriously weakened such principles (Mishra, 1984; Esam et.al., 1985).

Demographic changes and alternative family structures have also challenged the original Beveridge conception. With an ageing population, lifetime breadwinner contributions do not prove sufficient to finance retirement pensions for an increasing number of elderly people over longer periods of time. Additionally, the dramatic upturn in divorce in the early 1970's created a new phenomenon, the single parent family, whose numbers doubled between 1961 and 1983. There are now over one million single parent families in Britain, the vast majority being headed by females, over half of whom rely on supplementary benefit (Annual Abstract of Statistics 1985; Social Trends No.16, 1986). As Beveridge assumed the universality of the nuclear family (with wife at home, husband at work), his plans did not include provision for single parents (Esam et.al., 1985).

There are two important conclusions to be drawn here: first that the Welfare State itself (as well as informal social norms), supports the existence of an ideal-type nuclear family that does not represent the way in which an increasing number of women live. The second issue relates to women and poverty: supplementary benefit, widely held to be the 'safety net' within the Social Security system is designed to ensure that 'nobody need fall below a minimum level of income which is intended to cover basic needs' (Lynes, 1985). Official definitions of poverty frequently use supplementary benefit level as an indicator of the 'poverty line' (Holman, 1978). Therefore it can be concluded that increasing numbers of women are living on the poverty line simply as a result of their inability to fulfil their role in the economic marriage of breadwinner/dependant, assumed to be the norm since Beveridge (Smart and Smart, 1978; Wilson, 1977).



Women with children who claim supplementary benefit suffer a series of double binds in a social security system dominated by the assessment unit of the nuclear family. Hilary Land (1985) has argued that the conditions under which men receive maintenance from the state reflect the goal of maintaining work incentives whereas the conditions under which mothers receive maintenance from the state are determined by the need to keep them performing unwaged 'caring' work for their families. But additional disincentives operate upon lone mothers which form an important background against which benefit fraud must be set. First, the 'obstacle course' presented to lone mothers first claiming supplementary benefit is daunting, stigmatising and degrading (see section (b) below for analysis of welfare rationing and stigma as justifications for fraud). Second, contrary to Land's argument, single mothers, for the first year of their claim, before the higher long-term rates of benefit become payable, are effectively subject to the same work incentive, (through low 'basic' scale rates of benefit), as are the unemployed. Third, it is significant that the only advantage which single parents enjoy is a higher disregard on their earnings than other groups of claimants. This rule, however, may be seen as confirming the inadequacy of the benefits paid to single parents and the necessity to supplement them with part-time work.

Crucially, for women, inducements to work part-time serve to maintain the inferior and disposable status of females in a dual labour market. At the same time the necessity for additional income acts as a powerful motive and justification for fraud. If work is not readily available, then forms of fraud which involve cohabitation and liable relatives may offer an alternative form of fiddle (Cook, 1987). It is hardly surprising, then, that single parent status is socially regarded as a transient phase for



women, because 'sooner or later it is likely, and even hoped, that a mother will solve her problems by marrying again' (Atkins and Hoggett, 1984:98). In so doing she will solve society's problems too, in reducing welfare state expenditure and recreating a 'good family' (see Chapters 3 and 6).

Women on welfare benefits can also be seen to suffer doubly as a result of their gender and working class situation (Harrison, 1983; Beltram, 1984). Initially they are often dependant on poorly paid men, thereafter upon the 'safety net' of welfare state provision. The operation of 'liable relative' cases serves in practice to force women, once more, into financial dependence upon men from whom they have separated. The position of women on supplementary benefit has been well summarised as follows:

'The harsh earnings rules, low pay and 'liable relative' and cohabitation tests place obstructions in the way of women single parents who wish to work or enter any kind of friendship. They must either make a dramatic change - go to work full-time or set up joint home with a man - or stay as they are. Most women single parents and their children face the choice between poverty and dependence.'

(Esam, Good and Middleton, 1985:65-6)

Against this background of privation and dependency, this category of supplementary benefit fraud could be seen as an alternative path for some women who seek both financial independence (albeit through relatively meagre state benefits), and an emotional/sexual relationship with a man.

For such women the financial gain from cohabitation which is assumed by the D.H.S.S. is frequently illusory. As Carol, quoted above, indicated, an emotional and sexual relationship does not necessarily involve a man giving money to a woman. In this particular case her boyfriend was

divorced and paid over a sizeable proportion of his wages in the form of maintenance to his ex-wife and children. The D.H.S.S. regulations concerning cohabitation, as argued above, assume not only traditional breadwinner-dependant roles between men and women, but also a traditional 'ideal' form of nuclear family which fails to come to terms with the realities of divorce and single parenthood.

When they fail to adhere to social mores with regard to sexual relationships, poorer women living on supplementary benefit are subject to double regulation, first informally by neighbours, community and through the imagery and rhetoric of the media. Second, they are regulated formally through the rules of entitlement to benefit operated by the D.H.S.S. As a result it can be argued that poorer women whose lifestyle, family style and behaviour is seen as deviant are effectively criminalized when they violate the cohabitation rule.

In analysing the various techniques by which benefit claimants may defraud the state, this category is less straightforward than other forms of fraud because, (as will be seen in section 2(b) below), the motivation of financial gain is not always present. Another important distinction involved in this category of fraud centres upon the claimant being regarded as a fraudster by virtue of his/her domestic and personal circumstances rather than by engaging in a purely financial transaction as, for instance, in the case of working while claiming. Although there are undoubtedly women who do gain financially from cohabitation with (working) men, this is not necessarily the case. In addition, this category of fraud more than any other demonstrates the capacity of the welfare state to police the private arena of a claimant's life and personal relationships under the veil of the prevention of fraud and abuse (see



Chapter 6 below). One may well ask, as Donnison does, 'How on earth did the State get into all this?' (Donnison, 1982:109). The answer lies in the household means test for the poor in which the traditional nuclear family pattern is first assumed, then, if not in evidence, actively promoted, through the stigma, deterrence and investigation methods used in the policing of female claimants. It is within this context that the commission of fraud by women on welfare must be located.

### 3) Itinerant fraud.

This category of fraud encompasses a variety of activities, all of which are bound up with the claimants' response to lack of permanent accommodation. The term 'itinerant' implies vagrancy, yet supplementary benefit claimants so termed are rarely wilful vagrants. More often, as Lord Scarman noted, homelessness is accompanied by 'unemployment, marital breakdown, poverty, ill-health or the disabilities of old age' (Guardian, 6.1.87.). In recent years concern about this form of fraud has increased, probably due to the dramatic rise in numbers of claimants living temporarily in bed and breakfast accommodation effectively subsidised by the D.H.S.S.. However, as the Social Security Advisory Committee noted,

'claimants have turned, for one reason or another and in increasing numbers to board and lodging accommodation not from choice, but because they have no alternative.' (C.H.A.R., 1986:145)

Nonetheless government concern about fraud and abuse by claimants in such accommodation had, in September 1982, culminated in 'Operation Major'. The link between this ruthless pursuit of the homeless poor and the desire for maximum publicity for the D.H.S.S' anti-fraud campaign has been well documented (Franey, 1983; Smith, 1985). It may be argued that an emphasis



on the homeless 'scrounger' is another example of implicit distinctions being drawn between the allegedly undeserving poor (vagrants, workshy-unemployed and some single parent families), and the deserving poor, (the elderly, sick and handicapped for instance). The historical roots of such distinctions can be traced back to the Poor Law, yet remain influential in the representations of the poor in the 1980's (as argued in Chapter 3 above).

Not all commentators agree with amplified assessments of the extent of this form of fraud provided by media and right wing political voices. Former D.H.S.S. Under Secretary Geoffrey Beltram told the Public Accounts Committee in 1983 that

'this kind of itinerant fraud is not in fact one of the most serious areas of fraud for us, simply because of the limited number of people involved nationally.' (H.C. 102, 1983:para 21)

This is perhaps borne out in Table 4.1 (above) where itinerant fraud constituted only 6.7% of cases considered for prosecution in 1984/5.

Techniques employed in this category of fraud are, broadly, of two types. First, a homeless claimant may visit more than one Social Security office in the same day, (possibly giving false names), and claim the daily N.F.A. (No Fixed Address) rate of benefit at each. Currently £4.20 is paid, for meals only, on a daily basis to those sleeping rough (C.H.A.R., 1986:38). In certain areas, London and Glasgow for instance, the opportunities for this form of fraud have been curtailed by the existence of Special Offices to which the homeless and those in lodging houses are sent. Procedures for dealing with claims are very different in these special offices which have no appointment system and are characterised by an emphasis on establishing the claimant's identity and 'Unemployment

Review'. These features, according to former D.H.S.S. Under Secretary Lynda Chalker, are geared towards 'greater control of the fraud and abuse which occurs in a proportion of these cases'. (C.H.A.R., 1986:97). However, pragmatic factors, such as an average waiting time approaching five hours, also serve to restrict this type of fiddle (ibid).

A second type of fraud involves a claimant without a permanent home engaging in a collusive fiddle with a landlord of bed and breakfast 'hotel' or lodgings to whom s/he may have been referred by the D.H.S.S.. This type of fiddle was the object of Operation Major in Oxford where landlords of D.H.S.S. approved lodging houses falsely confirmed claimants' residence at their property (for a fee), and took a proportion of their benefit payments in order that homeless claimants could, falsely, receive in excess of the N.F.A. rate of benefit which pays for meals only (New Society, 27.1.83:141). The landlords, Cronin and Patel, who made vast sums from exploiting claimants and D.H.S.S. alike were, however, not prosecuted for their part in such frauds in Oxford - Cronin appeared as a prosecution witness instead. Despite the fact that a claimant may not gain as much from such frauds as a collusive landlord, this form of fiddle is regarded as an extremely serious one by the D.H.S.S. and courts alike, often attracting prosecution under the Theft Act which enables harsher punishments than under the Supplementary Benefits Act 1976 (N.A.C.R.O., 1986).

In identifying the techniques involved in what has been termed 'itinerant fraud' it remains essential to locate the actions of these claimants in the context of their extremely vulnerable social and economic position. The homeless have for centuries constituted one of the most powerless and disadvantaged groups in our society. The responses to the



so-called 'hippy commune' in the summers of 1985 and 1986 indicates the hostility of Britain's control culture to groups who reject mainstream material values (Vincent-Jones, 1986). At the same time this particular group's status as benefit claimants was the subject of vociferous condemnation, both in parliament and in the tabloid press. Paradoxically, many of Britain's homeless poor do not reject mainstream material values and are, as Scarman noted, the victims of economic and domestic circumstances which have rendered them powerless. These economic and social factors underpin the justifications for benefit fraud offered by homeless claimants (see analysis in section 2(b) below).

#### 4) Instrument of payment fraud.

This category of fraud does not appear as a distinct classification in Table 4: 1 as it is subsumed under the heading of 'other static fraud'. 'Instrument of payment fraud' is itself a composite term for a variety of fiddles associated with the theft, alteration or forgery of the claimant's 'instrument of payment'. These are primarily the supplementary benefit order books and giros which are encashed through post offices.

Techniques involved in these forms of fraud vary. A local example involving several such instrument of payment frauds recently came to light when ten (female) claimants were prosecuted. The local press detailed how the women had swapped orders in different order books, reported the books missing or stolen and subsequently received replacements from the D.H.S.S., which they also cashed. 'Crude alterations' were made to the books as, according to an investigator, 'they [the women] became too confident of getting away with the fraud' (Shropshire Star, 16.4.86). Clearly these frauds were relatively unsophisticated and demonstrated the fraudsters'



ignorance of D.H.S.S. procedures and anti-fraud safeguards. For instance, many alterations to giros are easily recognised. As one senior D.H.S.S. official told the Public Accounts Committee, 'we have defences built into the Giro cheques against alteration'. A fraudster's initial confidence that s/he has 'got away with it' may be misplaced because although Post Office counter staff may cash giros with convincing but false signatures, all allegedly lost and stolen giros and orders are thoroughly traced back after encashment (H.C.102, 1983). A fraudster may therefore be initially unaware that the offence has been detected

It is important to remember that D.H.S.S. staff themselves have to make judgements about the 'genuineness' of claimants who alledge that their giro has not arrived, has been lost or stolen. Suspensions are bound to be aroused if such assertions are made by the same claimant on more than one occasion. Therefore those who attempt instrument of payment fraud are more liable to get caught, (particularly if engaging in several frauds), unless their fiddles are highly organised. It is perhaps a measure of the desperation of these claimants that they even attempt relatively crass frauds of this kind. As will be argued below (section 2 (b)), these forms of fraud should be seen in the material context of poverty, despair and degradation in which they take place.

#### 5) Other fiddles.

Table 1 indicates that there are additional forms of benefit fraud which, although statistically not as important as those already discussed, need to be analysed in terms of the fraudsters' techniques. They all involve different means of 'knowingly making a false statement in order to obtain benefit', which is the essence of the illegal act involved in

benefit fraud (W.A.C.R.O., 1986). As discussed above, working 'on the side', cohabitation, fictitious desertion, itinerant and instrument of payment frauds all involve making false statements, whether on initially claiming benefit, on review or on cashing payments at a post office. But false statements relating to other aspects of a claim can also give rise to fraud. Such false statements refer to the income and outgoings of the claimant, or the 'assessment unit'. For instance, concealment of income from occupational pensions, employers' sick pay, grants, redundancy payments, Family Income Supplement and Child Benefit constitutes an offence for the same reasons as working on the side. The same applies to concealing capital resources. In addition, (currently) persons whose savings and capital exceed £3,000 are not eligible for supplementary benefit (Lynes, 1985). Clearly, failure to declare savings in excess of this amount has important consequences as one unemployed claimant, Brian, realised.

In order to obtain supplementary benefit Brian engaged in what is termed 'deprivation of resources'. This involved temporarily 'giving' his capital, (around £4,000), to relatives for the duration of his unemployment. Although statements that he had no capital were technically not false, had the D.H.S.S. been aware of his actions they would have assumed the capital to be his and so withdrawn his supplementary benefit. Another claimant, Heather, did not declare regular payments from her father. She was a lone mother and regarded her 'allowance' from him as an essential means of helping to make ends meet. Ironically, in Heather's case these payments would have been quite legitimate if earmarked for providing a 'leisure or amenity item' such as school fees, private medical treatment, cigarettes, sweets, holidays or home decorating (Lynes, 1985).



Less ambiguous in their commission and effects are fiddles such as those committed by Anne, who did not always inform the D.H.S.S. of the money she received from her ex-husband, (or 'liable relative' as he is technically known). Her statements in obtaining benefit were false and knowingly made, yet as will be seen below she justified her actions by reference to the disruption to her benefit payments that would ensue if she did declare this income.

False statements can also refer to a claimant's outgoings which are equally essential for an accurate assessment of supplementary benefit. For instance, falsely inflated figures of rent payable, (and possibly forged rent book), can lead to an over-claiming of benefit. Similarly, to claim for children or adults who are not in fact being maintained within the assessment unit is also fraudulent.

Another technique which does not readily fit into earlier categories of fraud is that of multiple claiming. This form of fraud appears to be increasingly evident since the D.H.S.S. policy reducing the home-visiting of claimants and the subsequent introduction from 1982 of postal claims as the standard method of collecting information about claimants' circumstances (N.A.C.R.O., 1986). However, the effects of deepening economic recession, mass unemployment and a consequent upsurge in the numbers of supplementary benefit claimants in the 1980's should not be overlooked as influential factors. The switch to postal claiming alone may be insufficient to explain the growth of fraud by multiple claims. This fraud involves a claimant, (or several claimants), applying for supplementary benefit from a series of false addresses and/or in a number of false names. The techniques involved were described in press coverage of the case of a Wolverhampton couple who were prosecuted in 1985:



'They had a network of 19 false names and 10 accommodation addresses in Wolverhampton, Kidderminster, Leicester and Coventry...And they made regular trips to sign on at benefit offices and collect Giro cheques at the various addresses.' (Express and Star, 15.2 85)

In this case the figure of benefit defrauded was large - £50,000 according to press reports - and the techniques involved were complex, involving a high degree of organization.

Finally, fraudsters may falsify details relating to their domestic circumstances in order to claim benefit. Geoffrey Beltram gives examples of this form of fraud which can be associated with multi-occupied accommodation in which claimants falsely 'pose as householders' (Beltram, 1984:99). There are links implied here with ethnic minorities, but it should be noted that Beltram is sensitive both to the problems of such minorities and to those of the D.H.S.S. staff who serve them. According to Beltram some staff did make racist comments, some, (at best), appeared to lack sympathetic understanding, but others found genuine difficulty in dealing with claimants from a different cultural background whose circumstances, (for instance in relation to cohabitation and multi-occupation), did not conform to the typical 'family' catered for in the D.H.S.S. regulations. At the same time, Beltram argues that the minorities' advisers may be unaware of those in their community who do commit fraud (ibid). Certainly it is not logical to assume that claimants from ethnic minorities never commit fraud, but racism (to which D.H.S.S. staff, like other members of society are subject), can serve to amplify the alleged 'problem' of benefit fraud amongst ethnic minorities. This in turn may influence the extent and character of the policing of welfare for such

groups and so further distort public perceptions on the issue of 'scrounging' and race (see Chapter 5).

#### Summary of supplementary benefit fraud techniques

Individuals who defraud the D.H.S.S. utilise a variety of techniques in order to gain illegal financial advantage from the state. Some techniques are identical to those involved in defrauding the Inland Revenue: for instance, moonlighting, ghosting and the falsification of statements of income and outgoings are the precise techniques used by tax fraudsters. But, significantly, the same actions may be both justified and perceived in differing ways. For instance, a businessman falsifying accounts may see his actions as a logical response to repressive state agencies (the Revenue Departments) and at the same time a reassertion of the inherent values of a capitalist society - entrepreneurial spirit and the creation of personal wealth. A benefit fraudster is more likely to cite poverty and the inadequacy of supplementary benefit levels as the prime motive for his/her actions. Both tax and benefit frauds are motivated by economic imperatives, but the interpretation of these motives by regulatory agencies and in the public rhetoric is entirely different (see Chapters 3 and 6).

The opportunity structure available to benefit fraudsters is relatively restricted in comparison to the opportunities available to the tax evader. For the benefit fraudster opportunities to fiddle centre upon low-paid casualised work, manipulation of information on personal circumstances, and 'risky' activities such as fiddling giro's and order books and multiple claiming. Furthermore, the financial gain available is far less, being based on the low and finite limits of the supplementary benefit scale rates. By contrast most forms of tax fraud offers greater



gains for less risk, both in terms of getting caught and in terms of severity of punishment meted out (see Chapter 5(3) below).

When describing their techniques of fraud, almost all the fraudsters I interviewed invoked vocabularies of poverty, need, stigma and despair in justifying their actions. It was, for most of them, impossible to separate the means of benefit fraud from the allegedly legitimate ends which they felt it served. By contrast, tax fraudsters' accounts of their techniques reflect a more 'sporting' view of fraud, whereby the complexities of the taxation system are utilized in order to outwit the taxman. No matter how cunning the benefit fraud, claimants are not perceived as engaged in a battle of wits with the D.H.S.S., or as victims of a complex system of social security benefits. The reasons for differential responses to tax and benefit fraud are not located in qualitative differences in the commission of the criminal acts described in this part of the Chapter. Rather, they are located in the social, economic and ideological context in which these acts take place.

This analysis has, for pragmatic reasons, distinguished the techniques of fraudsters from their motives. Yet the means by which tax and benefit fraudsters fiddle the state and ends which they argue are being served are often closely linked within the justificatory rationales. Both the 'means' and 'ends' of the fiddle become conflated in the material context of poverty and the bureaucracy of welfare provision. It is therefore necessary to examine the self-justifications put forward by benefit fraudsters in the light of both

- (a) the knowledge of the techniques of fraud (already discussed), and
- (b) the conditions of existence of the fraudsters themselves.



(b) JUSTIFICATIONS.

In conversations with supplementary benefit claimants the harsh realities of life on the poverty line become apparent. All supplementary benefit fraudsters I interviewed referred to the inadequacy of the scale rates of benefit payments when they spoke of their reasons for fiddling. Clearly it is essential when examining their self-justifications to take account of the broader socio-economic context in which fraud takes place.

The common themes which emerged when questioning claimants about reasons for fiddling all relate to the material conditions under which they live: they incorporate the effects of being a 'claimant' on the individual's self-image, the effects of strained interactions with D.H.S.S. staff and negative societal reaction to them as welfare 'scroungers' in addition to purely economic motives. The themes which emerged may be analysed under the following headings:

- 1) 'Fiddling for necessities': the inadequacy of supplementary benefit levels.
- 2) The nexus of mistrust and degradation: claimant/staff relations, the interactions of D.H.S.S. offices, claimants' perceptions of their treatment and their 'scrounger' status.
- 3) Swings and roundabouts: Fiddling as a response to the vagaries of the benefit system.
- 4) 'Everyone does it': the belief that we are 'all' on the fiddle.

1) 'Fiddling for necessities'.

'It's simply lack of money. You don't have enough to live on.

You fiddle for necessities and don't look for any luxuries.'

(Carol, lone mother of three).

Carol described her life on supplementary benefit as 'hell'. She first claimed benefit at the age of nineteen when she had separated from her first husband and returned to her parents' home with her baby daughter. Years later, when her second marriage broke down, she had to claim once more, this time as a mother of three children with her own rented home. But she had great difficulty managing on what she regarded as inadequate supplementary benefit payments from the D.H.S.S.:

'The kids never had any new things: it was always rummage and second-hand.... I couldn't shop weekly, I just shopped to replace essential things.....At Christmas I took old toys down from the loft, did them up and re-wrapped them... I couldn't cope with Christmas, birthdays and new clothes.' (Carol)

Her experience is one shared by many families dependant upon supplementary benefit. According to a study conducted by the C.P.A.G. in which such comments are typical:

'The real problem is making ends meet...Having to live from day to day. You can never plan anything...A constant struggle...It's just not enough to live on.' (C.P.A.G., 1980:13)

More recent research has confirmed that many of those forced to live on supplementary benefit are not held in the 'safety net' above the poverty line, but rather are living in conditions of poverty, this being especially so in the case of families with dependant children (Beltram, 1984; Cooper, 1985; George and Wilding, 1984). This is certainly the case if poverty is

defined in the manner advocated by the Supplementary Benefits Commission (in 1978) under its last Chairman David Donnison. Their definition is worth quoting in full because of its relevance to the experiences of the families described above:

'To keep out of poverty, people must have an income which enables them to participate in the life of the community. They must be able for example, to keep themselves reasonably well fed, and well enough dressed to maintain their self-respect and to attend interviews for jobs with confidence. Their homes must be reasonably warm; their children should not be shamed by the quality of their clothing; the family must be able to visit relatives, and give them something on their birthdays and at Christmas time; they must be able to read newspapers, and retain their membership of trades unions and churches. And they must be able to live in a way which ensures, so far as possible, that public officials, doctors, teachers, landlords and others treat them with the courtesy due to every member of the community.' (Donnison, 1982:8)

In terms of this definition, which sees poverty as a relative concept, related to the lives and expectations of others in the community, all of the supplementary benefit claimants I have interviewed are certainly living in poverty.

The justification of poverty was invoked by Barry, a 26 year-old unemployed father of four who had only been able to obtain casual work since he left school at the age of 16. Barry and his wife spoke to me of not being able to afford new shoes for their three elder children, (all under seven years old). When, two years ago, the D.H.S.S. refused them a grant for nappies for their newly born baby, Barry took a week's casual



work on a local farm 'spud bashing' and continued to claim supplementary benefit. A neighbour 'grassed' on him and he was prosecuted by the D.H.S.S. (see Chapter 5(3)). Barry still feels that benefit fraud is justified so long as the cash defrauded is used 'to buy food, clothes and shoes for the kids' as, he argues, was the case for him. But he condemned 'fiddles for beer money'. He clearly felt that it was justifiable to fiddle for need but not for 'greed'.

Normative considerations therefore seem to operate for many benefit claimants who delineate justifiable 'fiddling for necessities' in contrast to the unacceptable fiddling of those whom it is felt do not need the cash. Another example of such considerations was provided by a self-employed builder who explained that when he was out of work he had met a man who was 'on the social' but working on the side as a carpenter. This was felt to be reprehensible because the carpenter was suffering no financial hardship and, furthermore, 'he could have got a job if he'd wanted to - he was just greedy'. In another instance an odd job man who was claiming benefit was 'shopped' by his own Aunty, not only because he had allegedly overcharged her, but also because his standard of living was still high despite his 'unemployment', and so even his family considered him to be 'greedy'! But for the vast majority of claimants, certainly for all of the individuals and families I interviewed, supplementary benefit proves insufficient income to provide the 'necessities' in terms of clothing, a good varied diet, warmth and household amenities. Under such circumstances fiddling for those necessities becomes a logical and pragmatic response.

Other research involving analysis of the material conditions of supplementary benefit claimants, (and their own perceptions of those

conditions), arrives at similar conclusions regarding the material and psychological deprivation they suffer (Marsden, 1982; Campbell, 1984; Harrison, 1983). But, it is true to say that not all benefit claimants believe themselves to be living in the depths of poverty: 'one or two still had some residue of past affluence, others help from relatives, to ward off hardship'(Beltram, 1984(b):140).

Nevertheless, the effects of living at this level of income for any length of time are dire, and mass unemployment is pushing ever greater numbers of individuals and families into poverty. For instance, Manchester City Council(1986) calculated that unemployment, the main reason for the growth of poverty in the city, had more than doubled since 1978. The unemployment rate then stood at 10.6%, but by 1985 had reached 23.6%. Over a similar period the percentage of the city's population dependant upon supplementary benefit had increased from 18% in 1979 to 31% in 1984 (ibid). In this structural context of economic decline it becomes difficult to argue that poverty is the result of individual idleness, mismanagement and personal failing. Yet the consequences for individuals and families on supplementary benefit are inescapable. It is particularly significant that a former high ranking D.H.S.S. official should admit that,

'It seemed clear that families with dependant children could not reasonably be expected to maintain an acceptable standard of life on incomes at, or close to, the ordinary basic S.B. level for any considerable length of time, unless they also had help from other sources...Indeed, without extra support they would generally continue to be hard pressed when, after a year on S.B., they qualified for the higher long term rate, a boon so far denied to the unemployed.'

(Beltram, 1984:84)



Furthermore, it has been asserted that levels of supplementary benefit are in fact declining in relation to the average wage, and that the numbers of children in poverty has tripled since 1975 (Walker and Walker, eds., 1987). The majority of these new poor are the children of the unemployed (Piachaud, 1987).

The justification for benefit fraud as fiddling for necessities therefore takes on added meaning when the realities of life on supplementary benefit are contemplated. Such realities are not appreciated by the right wing critics and politicians who represent life on welfare benefits as cosseting and encouraging idleness (see Chapter 3). Yet two conservative M.P.s, (Matthew Parris and Piers Merchant), could not rise to the challenge of living comfortably on supplementary benefit for seven days, let alone the daunting prospect of 'dole' as a relatively permanent way of life. Three claimants recently prosecuted for supplementary fraud put the situation to me graphically in their comments upon the proceedings in a Magistrates' Court (see chapter 5(3)). One of them complained,

'They don't live in the same world as us. They don't know what our life is like.'

Another agreed and added,

'They're on another planet, mate.'

In their disadvantaged situation, (often with rent arrears, fuel debts and crippling 'club' payments), they responded by working 'on the side'. The response was seen as logical and the risks involved were accepted:

'There are more getting caught, but you pay your money and take your choice, I suppose.'

Vocabularies of motive which stress poverty and necessity are not therefore merely 'excuses' for benefit fraud. The material conditions



(described here), indicate that poverty causes such fraud. But one problem arising from this observation is 'why is it that all supplementary benefit claimants do not engage in fraud?' Possible reasons derive from the diversity of people's individual responses to their material conditions, and the meanings which they attach to them. For instance, Beltram noted that not all pensioners believed themselves to be poor - but some were cushioned from the worst effects of reliance on state benefits by savings or family support. In addition, some families' needs are greater than others: as noted above, those who suffer most from long periods on 'safety net' levels of benefit are the long-term unemployed, particularly those who have children. Finally, as Box (1987) notes, responses to unemployment (and deprivation) depend on what this experience means to those suffering it, what is perceived as its likely duration, and what is believed to have caused it (ibid:158). Hence, not all individuals in the same circumstances will resort to lawbreaking. But that is not to say that the motives of those who do are merely 'excuses'. On the basis of my interviews with benefit claimants (whether fiddling or not), most fraud is attributed to economic necessity which arises from harsh material conditions, which are worsening, particularly in the former industrial heartlands.

Such conditions are well documented by Gofton and Gofton in their analysis of life in Consett, known locally as 'Giro City'. The authors detail how a culture of worklessness evolved, centred upon the D.H.S.S. economy (Gofton and Gofton, 1984). Empty shops, amusement arcades, and 'cheap shops' (selling cut-price goods), co-exist with back street motor repairers, builders and painters. The unemployed find ways of 'making out' as the moonlighting 'dole-wallahs' who also serve to buttress the

employers of the formal economy by providing cheap and disposable labour. Although breaking the law, the authors argue

'it's difficult to feel any moral indignation about it.' What do you want me to do?' they say. 'In this world you've got to look after yourself'. ...They organise their lives around moves between full worklessness and 'fiddle jobs'.

(Gofton and Gofton, 1984:282)

It could, nevertheless, be argued that care must be taken not to accept uncritically those rationales for fraud which cite economic imperatives, not least because this is also a justification frequently given by tax fraudsters for evasion. But in the light of evidence presented here, the privation suffered by supplementary benefit claimants is demonstrable - the same cannot be said of the alleged financial hardships of 'long-suffering' taxpayers.

## 2) The nexus of mistrust and degradation.

Justifications for benefit fraud may also be rooted in feelings of degradation and worthlessness created through the process of claiming and receiving supplementary benefit. Recent research has demonstrated the extent of such feelings amongst claimants (Cooper, 1985; Beltram, 1984; Foster, 1983). The existence of 'rationing' of welfare benefits is well documented (Foster, 1983; MacGregor, 1981; Deacon and Bradshaw, 1983). Rationing devices can include delays, lost files, failure to inform claimants of their full rights and the forbidding character of the benefit system itself. Whether by device or by mischance, such factors contribute to a framework within which claimants may feel 'guilty', even if they have committed no offence other than the sin of being poor.



One claimant, (a lone mother being questioned about 'boyfriends' and how often they called), felt as if she was 'guilty until proven innocent'. When Carol initially claimed benefit on separating from her husband she had been angered and disgusted at her treatment by a visiting officer:

'They wanted all the mucky details....who I slept with, when and where and how many times. I'm surprised they didn't ask what position too...They didn't want to help me.'

She felt she was being treated like a 'scrounger'. In these circumstances, she explained, her attitude toward committing fraud changed :

'I thought "so what? They think I'm fiddling so I may as well be!"' Some time later when the opportunity to fiddle arose she took it, and her fiancé unofficially moved into her home while she continued to claim benefit. However, she had enquired, on more than one occasion, about the cohabitation rule, but had been treated with great suspicion:

'They told me that if I was even thinking about it to send my book in. I tried the C.A.B., but I had no information at all.'

In this case an official's mistrust, coupled with the claimant's belief that 'they treat you like an imbecile', contributed to a situation in which the claimant felt that fraud was justifiable.

It would be difficult to argue that the stigma suffered by claimants and the mistrust shown to them by D.H.S.S. staff is alone sufficient to explain why some claimants turn to fraud (see chapter 5(2) for discussion of D.H.S.S. policy and 'welfare rationing'). But, coupled with inadequate benefit levels, these factors may offer a contributory justification.

Ironically, it is probably the concern to prevent fraud and abuse which leads D.H.S.S. staff effectively to label certain of their claimants



potential fraudsters and so possibly contribute towards a self-fulfilling prophecy. This has long been the case:

'Officers seemed more anxious that they should not be taken in by a hard luck story than that they should fail to meet genuine need.'

(Sinfield,1970:233)

More recently, Cooper (1985) noted the comments of the manager of an urban D.H.S.S. office who had been dealing with claimants since the days of the National Assistance Board (NAB):

'I run a tight ship here, and I know how to do that because I've been in the business since the NAB days. In those days we didn't give anything out unless it was really needed and unless it was an honest, deserving claim. Now it's easy for claimants; too easy... I can tell you that it takes alot of pride out of the job, when you know that nine out of ten of your customers are fiddling you. What's more, welfare rights egg them on so you begin to feel you're anyone's mug. In this office we've a reputation for being a bit shrewd, a bit harder; that's deliberate. I tell all my staff to be on their watch and get all the information they can on people. There's just too much abuse.' (Cooper,1985:13)

These comments are interesting for a variety of reasons: first, the Manager appears to personalise the issue of fraud which he sees as making 'mugs' of staff, taking away their 'pride' in the job and making 'fools' of them. This presents the staff-claimant relationship as adversarial. The effect of this personalisation is therefore to perceive interactions with claimants as a battle of wits, bearing in mind that the claimant is highly likely to be a cunning fraudster, (as nine out of ten are, according to this manager). Such comments appear to justify the belief of several

claimants I interviewed, that they were labelled 'scroungers' by the very fact that they were claiming supplementary benefit. Such beliefs are also supported when advocates of 'effort' refer to the receipt of social benefits as a 'moral hazard' in itself (Parker, 1982) (see Chapter 3).

Second, the D.H.S.S. office manager clearly makes distinctions between 'deserving' and 'undeserving' (hence, suspicious), claims. Further observations noted by Cooper seem to indicate that staff are more likely to regard as 'deserving' those claimants who are from a middle class background (whether unemployed or not), the sick (unless suffering from 'back trouble'), the disabled and the elderly. Therefore many single parent families and the unemployed may be unofficially categorised as potential 'scroungers' by the staff who deal with their claims. But, it is important to recognise that these categorisations are not merely the product of D.H.S.S. staff prejudices: as Chapter 3 indicated, the legacy of the 1834 Poor Law still informs images of the 'deserving' and 'undeserving' poor. As a result discourses about the morality and pathology of welfare recipients are 'naturalised' in the public rhetoric (Golding and Middleton, 1982).

Although generalisations about staff/claimant relations would be difficult to make, (because, as Cooper indicates, there are sympathetic, caring and efficient staff too), it appears reasonable to assert that if claimants encounter staff who regard them as fiddlers, they may well lose self-esteem and become increasingly frustrated. Such frustration leads to loss of confidence in the supplementary benefit system which may provide a rationale for fiddling. For instance, many claimants I spoke to had been annoyed at what could be termed informal rationing or 'mucking about' (Foster, 1983). They referred to the refusal of Exceptional Needs Payments (E.N.P.s) seemingly unfairly or without explanation, delayed giro's, lack of



explanation of entitlement and intrusive interviews. All contribute to a feeling of degradation, mistrust and mutual hostility between claimants and D.H.S.S. staff, which may make the commission of fraud more likely (see also discussion of benefit office conditions and adverse effects on take-up of benefits in Chapter 5(2) below).

Third, the manager in question seems to regard it not only as a virtue to be 'hard' and intrusive towards the 'customer', but also as a necessity in view of the role of welfare rights agencies in 'egging them on' to claim. The payment of benefit is thus presented here not as a right but as a privilege, conferred on the 'customers' by D.H.S.S. staff, once officials have been convinced of the honesty (and desert), of the claim. As knowledge confers power within this complex social security system, such knowledge is jealously guarded and thus the activities of welfare rights advisers are resented. The rhetoric of the effort school of thought is evidently informing such attitudes towards welfare: for example, it is assumed that 'undeserving' claims can be deterred through the 'tests' informally administered by officials who make the claiming process as difficult as possible. Furthermore, the misgivings about claimants gaining all the benefits to which they are entitled could be seen to represent the fear that the principles of 'less eligibility' may be eroded and that the poor may thus 'enjoy their servitude' and dependancy (Boyson, 1978:110).

This 'hard' attitude is transmitted in staff-claimant interactions - claimants frequently used phrases like 'you'd think it was their own money' when describing to me the attitudes of benefit staff. In the light of Coopers' observations this would seem a common sentiment amongst claimants. This clearly signifies that feelings of mistrust and degradation are important elements in analysing the way in which many claimants



perceive the supplementary benefit system. Although D.H.S.S. staff are by no means uniformly hostile, Cooper's evidence suggests that the legacy of the harsh 'NAB days' dies hard. This legacy, like that of the Poor Law, gives rise to ideological contradictions which enable supplementary benefit claimants in the 1980's to be represented as idle, feckless and culpable (Boyson, 1970; Golding and Middleton, 1982).

As a result, many claimants may feel they are stigmatised and degraded by the staff who administer welfare, and by 'society' in general, as evidenced in popular imagery of the 'scrounger'. At the same time, the realities of mistrust and the scrounger mythology serve to shift official and popular discourses away from issues of poor take-up of benefits, poor service to claimants and, crucially, inadequate (and decreasing) levels of benefits. In this way the 'problem' of supplementary benefit fraud is being ideologically constructed, and alternative discourses suppressed. As Beltram (1985) notes, the D.H.S.S.'s policy and practice of policing supplementary benefit has important effects, for instance,

'honest people who are deterred from claiming by publicity about scroungers, or fear of being asked distressing questions, or past experience of official incivility.' (Beltram, 1985:27)

It is within this framework, I would argue, that fraud can be seen partly as a product of a staff-claimant nexus of distrust on the one side and, on the other, a feeling of degradation claimants feel as a result of being perceived as 'undeserving' scroungers.

### 3) Swings and roundabouts.

The complex nature of the supplementary benefit system itself may also contribute to the commission of fraud. Fraud may arise as much from omission as commission, and in many cases claimants fail to inform the D.H.S.S. of relevant changes in their circumstances for fear that a re-assessment of their entitlement would delay their benefit payments. This was the case for Anne who received maintenance payments from her husband very rarely indeed. On the few occasions that she did receive money from him, she did not always inform the D.H.S.S. because of the disruption this would cause: on informing them her entitlement would be reassessed and her benefit payments often delayed, leaving her temporarily without money. Anne justified not telling the D.H.S.S. about occasional maintenance payments in terms of 'swings and roundabouts': she felt that any advantage gained through this fiddle had previously been earned through the disadvantages she suffered while on irregular payments.

A similar situation may arise in relation to part-time earnings. Brian was unemployed and had a part-time job, for one evening per week, and he declared any earnings when he signed on. As a result he was told to sign weekly as his earnings may vary. Although he explained that he earned identical amounts each week, he was required to produce verification weekly. His supplementary benefit was delayed and he often ran short of money. By the time his part-time job ended, his attitude towards the benefits system had changed; he indicated that in future he would probably not scrupulously declare any part-time earnings.

The justification of 'swings and roundabouts' offered by claimants is an important contributory rationale, bearing in mind the primary cause of supplementary benefit fraud - poverty. It enables claimants to legitimise

their illegal gains from the welfare state in terms of the perceived failings of the operation of the welfare state itself. Effectively, such justifications shift the responsibility for fraud from the fraudster to the operation of the 'system', and certainly helps claimants who are on the fiddle to rationalise their actions. If they have suffered bureaucratic delay, if the whole benefit system was seen as collapsing under the strain of mass unemployment and staff cutbacks, if their levels of benefit are seen as inadequate, payments as at times unreliable and quality of service poor, then clearly fiddling will appear to be a legitimate response to a capricious system.

The interplay of a variety of such justifications is well demonstrated by Harrison, who locates factors such as mutual mistrust and the vagaries of the benefit system within the context of deepening recession as Britain entered the 1980's:

'The British social security system, never generous, became Scrooge-like, and acted as an incentive and a provocation to abuse. There was the widening gap between the basic rates of benefit and basic needs...and the even broader chasm between the rates and the level of expectations generated by the media. There was the often arbitrary denial of entitlement: if the system did not play fair with its dependants, it could hardly expect them to play fair in return. And there was the suspicion and scepticism about claims: if people were treated as potential scroungers even when they were honest, then they might as well be scroungers for real.'

(Harrison,1983:148)



#### 4) 'Everyone does it'.

The belief that everyone is on the fiddle can also serve to reduce any anxiety that benefit fraudsters suffer when attempting to justify their actions. At the same time it makes fraud appear 'natural' and thus presents the fraudster's activities as less deviant. The belief that benefit fraud is widespread is a very popular one and was expressed by the majority of fraudsters I spoke to. For instance, in response to the question 'How many of your fellow claimants do you feel are fiddling?', some of the answers were,

'Many of them...for their children.'(Barry)

'Everyone I know on Sup. Ben. is fiddling.'(Carol)

'Alot!'(Caroline)

In response to a question on the apparently increasing number of D.H.S.S. prosecutions locally, one convicted fraudster commented wryly,

'There's just more getting caught.'

It is widely acknowledged that it is impossible to estimate the scale of supplementary benefit fraud with any confidence (Harrison, 1983; N.A.C.R.O., 1986; C.P.A.G., 1981: H.C.102 1983/4). But it can reasonably be argued that it is not insignificant in scope, but hardly merits the political over-reaction which has occurred since the 1970's (Harrison, 1983; Donnison, 1982; Levi, 1987). Unfortunately when claimants use the rationale that 'everyone' is fiddling, they unwittingly play into the hands of those right wing critics of the welfare state who seek to maintain the imagery of the idle, feckless scrounger (see Chapter 3). This form of justification therefore presents a paradox: if 'everyone' is on the fiddle then the harsh regulatory techniques sometimes employed by the D.H.S.S. in policing claimants surely gain acceptability. Furthermore, the 'scrounger' imagery

so prevalent in public representations of benefit fraud similarly gains credibility. Yet this imagery occludes the fact that the vast majority of claims are perfectly honest (Donnison, 1982).

I would argue that this form of justification operates in the same way as it does for the tax evader who asserts that 'everyone is on the fiddle'. It serves to appease fraudsters' consciences by making it seem that their actions are the norm. However, when the tax fraudster invokes the vocabulary that 'everyone does it', their frauds are often successfully justified - the money which they defraud is perceived as their own hard-earned cash which they merely 'prefer to keep', and their fiddles attract public acquiescence. But when claimants allege that 'everyone' fiddles, they merely reinforce the imagery of claimants as 'scroungers' who are seen to take money from the state. Therefore differential societal responses to this rationale can be attributed to basic differences in the perceived relationships between taxpayer and the state, and supplementary benefit claimant and the state (see Chapters 3 and 6).

#### Summary of the justifications offered for supplementary benefit fraud

The justifications which supplementary benefits fraudsters offer for their actions need to be located in both material and ideological contexts. The material realities of life on 'safety net' levels of welfare provision enable claimants to assert that they fiddle for financial survival. As discussed above, there is much empirical evidence which supports these assertions (for instance, Walker and Walker, eds., 1987; C.P.A.G., 1987). At the same time, material preconditions and ideological factors combine to create conditions of mistrust and degradation which may encourage the commission of fraud. For instance, the strained interactions between



D.H.S.S. staff and claimants can be largely attributed to staff attitudes which are underpinned both by (historical) conceptions of the deserving and undeserving poor, and by contemporary 'scrounger' stereotypes. In turn, the scrounger mythology, when coupled with the material realities of social security bureaucracy, can give rise to the justification that fiddling supplementary benefit is a logical response first, because certain (undeserving) categories of claimants are perceived as scroungers anyway, and second, because the benefits system is inefficient and unfair.

The contradictions between the social philosophies of individualism and collectivism are important in explaining the genesis of such justifications. For example, ideologies of individualism stress individual culpability for poverty and thus promote the notion of the feckless, idle and thus 'undeserving' poor. But the welfare state's provision for the 'deserving' poor - the elderly, the sick and the handicapped - depends upon a collectivist approach, funded (ostensibly) by personal taxation. Hence the principles of individualism and collectivism are differentially invoked, historically (Chapter 2(a)), and according to claimant categories.

Such contradictions enable alternative discourses about welfare and scrounging which are differentially invoked by fraudsters, departmental staff and in official and public rhetoric. For instance, official discourse centres on 'fraud and abuse' within the social security system, rather than the alternative issues of inadequate benefit levels and poor service-delivery to claimants. Thus for departmental staff the agenda for dealing with claimants is set in adversarial terms, dominated by the concern to prevent abuse. By contrast, the fraudsters' self-justifications emphasise the issues of poverty, inequality, powerlessness and degradation as the primary motives for fraud.



## SUMMARY

The first part of this Chapter examined the principal techniques which individuals use to evade taxes. Such techniques were found to be influenced by the opportunity structures presented by certain occupations, and by the limitations which could be placed on these opportunities by changes in Inland Revenue procedures. Tax fraudsters were thus analysed as both proactive (seeking out new opportunity structures), and reactive (reacting to procedural changes made by the Revenue). But the commission of tax fraud is accompanied by a complex set of self-justifications which enable the fraudsters to rationalise their actions as rational, moral and non-criminal.

Rationality is ensured if tax fraud is seen to be located in the context of a capitalist state, geared to the entrepreneurial wealth creation. The ideologies of individualism and the free market are therefore invoked in vocabularies which present fiddling taxes as the 'natural' product of wealth creating, crusading, clever and moral people. Morality is ensured either if one accepts that economic growth (even through the black economy), benefits all members of society, or if one accepts that the taxes evaded are the individual's own money which s/he merely prefers to keep. The notion that tax evasion is 'non-criminal' is constructed within the material and ideological context of an unequal society. Discourses which emphasise the functional aspects of differential reward (buttressed by incentives), create the ideological space within which the lawbreaking activities of the most 'valuable' citizens (the taxpayers) may be effectively de-criminalised (see Chapter 5 (1) and (3) below).

The second part of this Chapter examined the techniques most commonly used to defraud supplementary benefit. To some extent these techniques

were related to particular claimant groups: for instance, liable relative fraud is almost exclusively committed by women as it is a form of fraud produced by the assumption that the patriarchal nuclear family is universal. Equally, itinerant fraud is primarily committed by claimants without a permanent home. But the principal form of supplementary benefit fraud is working while claiming: these frauds are thus largely determined by occupational opportunity structures, (as much tax fraud is). However, from the analysis above, it is clear that such opportunities are relatively limited for benefit claimants, who are by definition unsuccessful in the formal economy. These limits, coupled with employers' desires for a cheap, disposable workforce, keep claimants working in the most marginalised, casualised and non-unionised sectors of the economy.

Benefit fraudsters implicitly invoke social justice ideologies when they justify their actions as a rational response to their economic deprivation and personal sense of degradation. In such discourses the state's function of 'accumulation' (invoked by tax fraudsters) is challenged, and an alternative goal of 'legitimation' through social justice is posed. But, as suggested in Chapters 2 and 3, such discourses fail to dominate official and public rhetoric because of the inherent tensions which have (historically) rendered official and public commitment to the welfare state 'grudging', and yet have at the same time presented taxation as an intolerable inquisition.

Therefore historical and contemporary struggles over the extent of state regulation (whether by personal taxation or welfare provision), inform the vocabularies of motive which fraudsters invoke to justify tax and benefit fraud, and also influence the extent to which such rationales attract official, judicial and popular assent. In conclusion, the main

Justifications offered by tax and supplementary benefit fraudsters, and the economic and ideological conditions which underpin them, are summarised in Table 4: 2 below.

**TABLE 4: 2    JUSTIFICATIONS FOR TAX AND SUPPLEMENTARY BENEFIT FRAUD  
AND UNDERLYING ECONOMIC AND IDEOLOGICAL CONDITIONS**

<div><div><b>SUPPLEMENTARY BENEFIT FRAUDSTERS</b></div><div>Justifications</div><div>1) Fiddling for necessities. 2) Nexus of mistrust and degradation. 3) Swings and roundabouts. 4) 'Everyone does it'.</div></div>	<div><div>Economic and ideological conditions enabling the justifications</div><div>Poverty, inequality 'Social justice' ideology Democratic interventionist state. Focus on 'scrounger' stereotypes, stigma.</div></div>
<div><div><b>TAX FRAUDSTERS</b></div><div>Justifications</div><div>1) Tax as 'intolerable inquisition'. 2) Taxation stifles incentives. 3) 'Everyone does it'.</div></div>	<div><div>Economic and ideological conditions enabling the justifications</div><div>'Free market' ideology Liberal minimalist state Focus on individualism, wealth creation, effort.</div></div>



## CHAPTER 5

### THE INVESTIGATORS.

The Inland Revenue and D.H.S.S. are both government departments with an enforcement role. As will be argued below, both are concerned to enforce rules, (relating to the collection of revenue, or to the payment of benefits), which are ultimately laid down by parliament. In this Chapter the official aims of these enforcing departments will be outlined, together with the investigatory practices that are designed to meet those aims. Official discourses concerning both tax compliance and the policing of welfare benefits will be analysed in order to demonstrate contradictions between 'official' policy goals and their effective practical outcomes. Practical outcomes will be assessed by analysing techniques of regulation used by Revenue and D.H.S.S. staff, the differing assumptions (concerning the taxpayer and claimant respectively) which underpin the nature and operation of such techniques, and the practical outcome of enforcement - settlements, penalties and prosecution.

The 'gaps' between theory and practice in enforcement policies enable the paradox of differential response to those who defraud the D.H.S.S. and those who defraud the Revenue. This analysis of departmental policies, of investigation techniques and rationales, and of departmental and judicial responses to tax and benefit frauds will be organised under the following headings:

(1) Tax Investigations: policy and techniques of regulation.

(2) Supplementary Benefit Investigations: policy and techniques of regulation.

(3) Differential response: penalties and prosecutions.

## (1) TAX INVESTIGATIONS..

### (a) Policy.

'You have important rights and entitlements as a taxpayer. You are entitled to expect that:... the staff of the Inland Revenue and Customs and Excise will help you in every reasonable way to obtain your rights and to understand and meet your obligations under the tax laws.' (Taxpayers' Charter, Board of Inland Revenue, 1986).

The Taxpayers' Charter marked an attempt by the Revenue to establish its aims as an enforcing department and , crucially, to establish the rights of taxpayers to 'Information, courtesy and consideration... fairness, privacy and confidentiality... rights of independent appeal and review' whilst 'minimising compliance costs'(ibid).

The primary function of the Revenue according to officials I have interviewed is 'the care and management of the Taxes Acts', which involves collecting 'the tax which parliament says is due'. Recently this primary objective has been accompanied by attempts to make good the damage done to relations with taxpayers by a massive backlog of work which stood at 2.7 million unworked papers at the end of 1985. This had arisen largely as a result of staffing cutbacks, involving the loss of almost 16,000 jobs in the last eight years (Board of Inland Revenue 128th Annual Report, 1986). The Charter signalled an attempt to restore public confidence and, although derided in some quarters, it does state the rights and duties of taxpayer and Revenue in a clear and open manner. (As will be discussed below, no similar document exists for supplementary benefit claimants). In summary, the Revenue's main function is to administer the Taxes Acts efficiently and equitably, with the aim of securing the taxpayer's compliance to them.



The word 'compliance' is itself of significance: it reflects Revenue attitudes towards activities which the D.H.S.S. would simply term 'fraud and abuse'. (The language referring to taxation is altogether more obliging, equivocal and morally neutral than the language of welfare benefits). A crucial factor in obtaining the taxpayer's compliance is an unspoken agreement that financial reparation, not official punishment, is sought by the Revenue when an 'omission' from returns of income is discovered. In practice this involves the underclassification of many offences in order to 'spare the taxpayers' feelings' (Cmd 8822, 1983;423). As the Revenue told the Keith Committee in 1983, 'We do not allege an offence more serious than is necessary to secure a reasonable settlement by agreement.' (ibid. 422). Such settlements may involve the payment of interest on tax found to be due - up to six previous years may normally be investigated, though this time limit may be extended in cases of wilful default or fraud - and also added financial penalties where appropriate (see section (3) for discussion of penalties imposed by the Revenue). The tendency to underclassify offences is justified on the grounds that lesser offences require a 'lower burden of proof', yet a subjective element is also evident in the department's view that 'it is generally sufficient to establish wilful default and not to have to accuse the taxpayer of fraud.' (ibid. 422).

But, as the Keith Committee noted, this policy of sparing the taxpayer's feelings may have objectionable consequences:

'On the one hand...a taxpayer who vigorously protests innocent error and whose defence is rejected finds himself at once in a penalty category that in practice accommodates both the inadvertent and deliberate defaulter...On the other hand, some offenders who have deliberately understated their income are likely to be treated



in practice as no more than negligent. (ibid.p.423)

Despite such problems in applying rules fairly, compliance and agreement form essential features of Revenue investigation policy. In practice the outcome of such a policy may be a structure of financial penalty which, in mitigation, stresses the degree of the taxpayer's 'compliance' rather than whether or not s/he intended to default or defraud the Inland Revenue. This anomaly reflects the essentially pragmatic nature of a policy which is directed first and foremost to the collection of tax rather than to equity or to retributive justice. Retribution is, however, frequently demanded when benefit claimants fail to comply with D.H.S.S. regulations (as will be seen in (3) below), despite the fact that they pay back monies owing to the public purse just as the tax fiddler does. Pragmatism therefore cannot be considered as the sole (or even the primary) explanation for the relatively lenient treatment of the tax fraudster when compared with the supplementary benefit fraudster. The practicalities of collecting unpaid tax therefore dominate the official rhetoric of investigation policy, though the urbane treatment of tax fraud is not simply a product of these practicalities: rather it is enabled by more complex contradictions emanating from differing relations between taxpayer and the state, and benefit claimant and the state.

Beneath the official rhetoric of Revenue investigation policy lie the contradictory ideals of collectivism (realised by citizens willing contributions to the state in the form of taxes), and individualism (realised in the entrepreneurial spirit, wealth creation and private accumulation of property). On the one hand it can be argued that the Inland Revenue performs the function of collecting the state's revenue from complying citizens, and on the other hand (as is implicit in much of the

Revenue's regulatory practice), it can be argued that tax revenue is the citizen's to give, by agreement. The relatively lenient treatment of tax fraudsters therefore has a great deal to do with which perspective is adopted and, as a result, whose money is seen to be defrauded.

The ideology of individualism and cultural emphasis upon individual material accumulation serves to present the tax fraudster as a victim of repressive taxation, someone who merely 'prefers to keep' a larger slice of their marginal earnings than the coercive taxman permits (Myddleton, 1979:47). According to critics of the Revenue, such as Ivor Pearce,

'Successive governments, obsessed with naive notions of social justice, have taxed to the point where the relation between effort and income has all but disappeared: where the industry of the people is obstructed in the maximum degree.' (Pearce, 1977: 105)

Former Secretary of the Inland Revenue Staff Federation Lord Houghton further argued that 'There are no ethics in taxation. There is no moral law in taxation.' (Houghton, 1977:60). Moral and civic duty is seen to play no part in influencing the individual to (willingly) pay personal taxes.

Alternatively, the rhetoric of social justice and civic duty can be seen to be essential (and functional) elements of modern Welfare Capitalism: for instance Titmuss argued that 'the Gift Relationship' when applied to social policy promoted social solidarity, whereas market principles in social policy encouraged self-centredness (Titmuss, 1970). The 'civic duty' and 'coercive' models of taxation form an important part of the debates (both historical and contemporary), concerning the relations between the individual and the state in an industrial society. It would be facile to simply locate the 'civic duty' view in the historical context of the 'Butskellite consensus' and the 'coercive' view in the context of the New



Right (Mishra,1984). As argued above (in Chapter 3) notions that appeared to have been superceded are often never simply replaced by others. Instead, they often either inform or take on new meaning within subsequent discourses. So it has been with the contradictions deriving from liberal and democratic conceptions of the state. Evident throughout twentieth century British social policy, these contradictions are nowhere more evident than in the case of taxation and welfare policy.

As far as taxation is concerned, the liberal view sees the Revenue's investigatory role as intrusive and stifling enterprise (Seldon ed., 1979). The democratic view sees taxation enabling collective provision for a social minimum for all citizens and therefore investigatory procedures are seen as essential in preserving the efficiency and integrity of the personal taxation system and, ultimately, social justice (I.R.S.F./A.I.T., 1982). When analysing the aims of the Inland Revenue as an enforcing department it is therefore necessary to consider both the official rhetoric articulating departmental policy and the hidden assumptions which inform and mould departmental practice. The Revenue's official aims are to ensure both compliance to the Taxes Acts and the rights of the individual taxpayer. Latent aims are to collect tax owed to the Revenue by the most agreeable means available: this involves seeking a bargain with taxpayers which will minimise the following :

(1)Administrative hassle - hence underclassification of offences, for instance.

(2)Taxpayer's resistance - 'sparing the taxpayer's feelings'.

(3)Taxpayers' compliance costs - as specified in the Charter.

I would argue that underpinning an ostensibly pragmatic approach to regulation of tax fraud is a coercive view of personal tax and, ultimately,



(and most effectively), the ideology of liberalism. When tax fiddles occur issues of crime, lack of civic duty or fiddling the state's revenue are not the operant: the 'individual's elemental right of property' dominates official and unofficial discourses (Denning, Daily Telegraph 17.9.79). Given this emphasis on the individual's right to accumulate personal wealth, it is not surprising that the aim of seeking the taxpayer's compliance dominates Revenue investigation policy and practice.

(b) Regulation.

Before analysing the regulatory techniques used by the Revenue, it is necessary first to outline the organizational structure in which investigations take place.

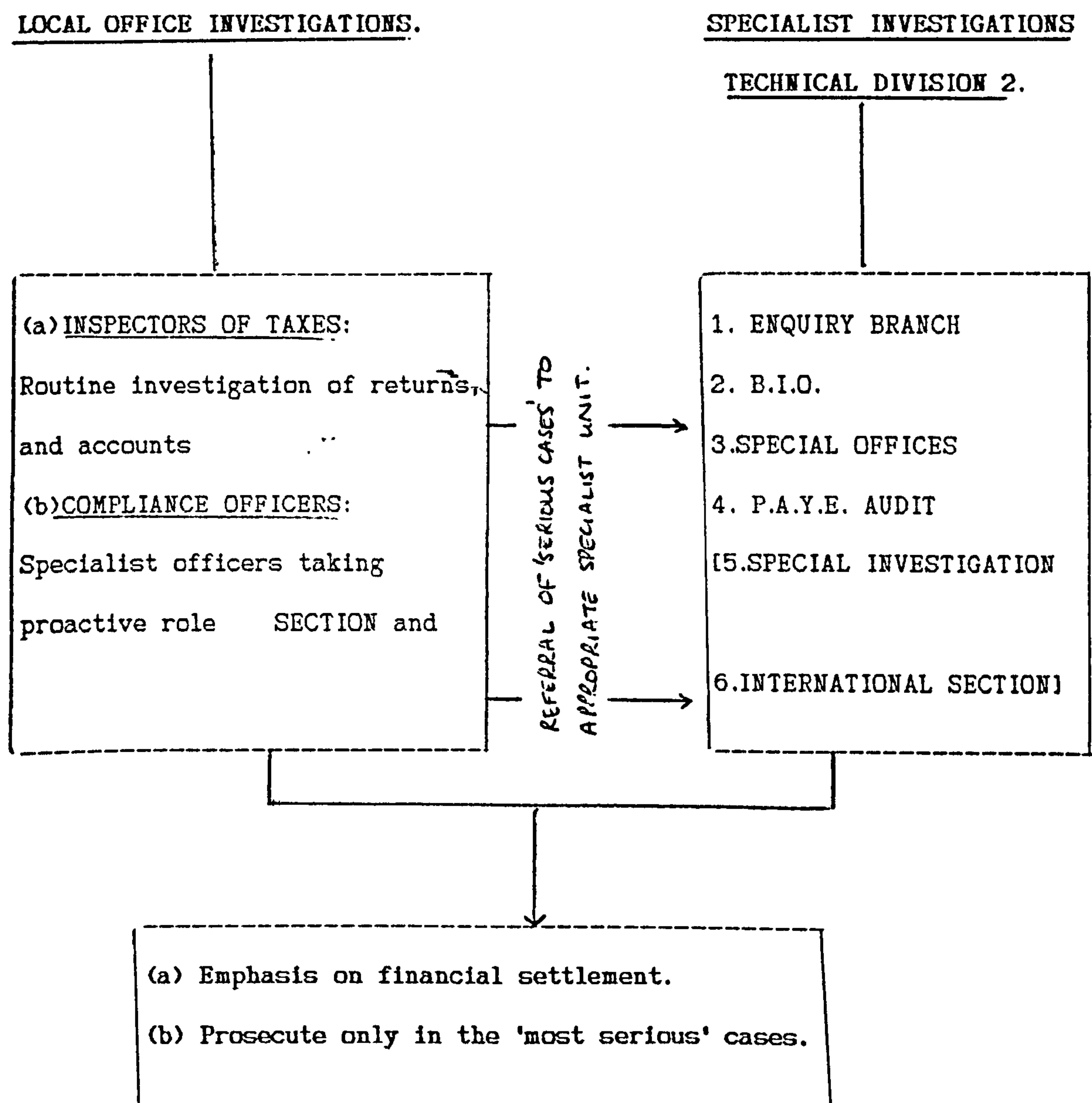
ORGANIZATION.

Table 5: 1 below represents the organizational channels through which investigations proceed. Revenue investigation work is carried out through two major channels which reflect the type and scale of the fraud itself:

- (1) Frauds not regarded as 'serious' and dealt with by staff based in Local Offices and
- (2) 'Serious' frauds and those related to specific occupational groups/industries - dealt with by staff working in specialist units under the Board's 'Technical Division 2'.

(1) Local Office Investigations: The majority of Revenue investigations take place at Local Office level where Tax Inspectors are engaged in the routine examination of accounts, and in the vetting of other cases referred to them, for instance when suspicion has arisen as a result of other officers examining tax returns. Since 1984 additional staff have been deployed in Local Offices on Compliance work: each office should now have at least one Compliance Officer (at the level of Tax Officer Higher Grade), and one Compliance Inspector. Although 850 extra officers were to be deployed between 1984 and 1988, by March 1986 only 180 of the authorised staff were in post, the delay being blamed on 'staff shortages' (Board of Inland Revenue, 1986:35).

TABLE 5:1    Simplified Diagram of Revenue Investigation Routes.



Local office investigations are primarily geared to obtaining financial settlement (as discussed above), but District Inspectors may refer cases of 'serious fraud' to Enquiry Branch where prosecution can be considered - the criteria upon which such decisions are made will be discussed in (3) below.



(2)Specialist Investigations: there are six specialist units engaged in investigation work, although only four are relevant to this thesis, (which concentrates upon the fiddles of the individual taxpayer or small trader rather than upon larger scale international tax frauds or tax avoidance schemes).

1.Enquiry Branch deals with cases of serious fraud in business accounts and cases where 'the honesty or competence of professional tax advisers is suspect'(ibid p36). According to the Keith Committee about three-fifths of referrals to Enquiry Branch come from Local Tax District Offices who suspect that a 'serious' fraud has been committed: guidelines indicated that an understatement of profits of £20,000 minimum was to be regarded as 'serious'(Cmd 8822, 1983: 9.11).

2.The Board's Investigation Office(B.I.O.) deals with a variety of suspected offences where trading accounts are not involved. Most B.I.O. officers are engaged in cases of suspected frauds connected with the construction industry (contractor and sub-contractor frauds), but also deal with false claims to allowances and expenses and offences connected with repayment claims. (They also investigate any suspected irregularities by Inland Revenue staff). Overall, 'they are regarded as the Board's police' in the sense that 'the offences they deal with are regarded as more in the nature of conventional crimes, and are thus more likely to be prosecuted.'(ibid. 9.10.3). The link here between what is regarded as 'conventional crime' and the type of offences most likely to attract Revenue prosecution will be explored in section (3) below.

3.Special Offices are concerned with problems of avoidance, evasion and non-compliance which are outside the field of other investigation units.

In addition they deal with complex cases which are beyond the resources of the local district offices.

4.P.A.Y.E. Audit units regulate the operation of P.A.Y.E. by employers, (inspecting employers' records and documents), and also check the operation of the special tax deduction scheme for the construction industry.

5.Special Investigation Section handles cases concerned with large tax avoidance schemes, including those where fraud is suspected.

6.The International Section is concerned with legislation on international tax avoidance and investigates cases of abuse in relation to foreign companies].

An indication of the effectiveness of Revenue Investigation can be gained from analysis of the yield, in cash terms, of the various investigation units, (Table 5: 2 below) and also the cost-yield ratio of the investigation staff working within them (Table 5: 3 below).

TABLE 5: 2 INLAND REVENUE: INVESTIGATION YIELD (£ million).

	1980	1981	1982	1983	1984	1985
Tax Offices-	82.3	93.2	149	174.4	227.9	259.6
Enquiry Branch-	18.9	22.8	35.4	40.9	41.9	51.4
Special Offices-	20.5	28.8	50.1	52.9	52.6	100.1
P.A.Y.E. Audit-	16.2	20.3	31.1	36.3	49.1	65.1
Special Investigation Section-----						72.5*
-----						
TOTAL	137.9	165.1	265.6	304.5	371.5	548.7

Source: Board of Inland Revenue 128th Annual Report, 1986:33.

(\*not included in investigation heading in previous years).

**TABLE 5: 3      COST/ YIELD RATIOS OF REVENUE INVESTIGATION WORK.**  
**Year ending 31st March 1985:**

Tax Offices	1 : 6.8
Enquiry Branch	1 : 17.6
Special Offices	1 : 27
PAYE Audit	1 : 5.5

(Source: Board of Inland Revenue 128th annual Report, 1986:36)

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Table 5: 2 indicates that in the past five years the yield from Revenue investigation work has increased four-fold: it should be remembered that these figures represent actual yields of tax. (This contrasts sharply with D.H.S.S. figures of 'benefit savings' - see (2) below). Similarly the Revenue figures of cost-yield ratios given in Table 5: 3 are far more reliable than are the comparable D.H.S.S. statistics. They indicate, for instance, that an investigator based at a Special Office can yield up to 27 times his/her salary in tax recouped. Although lower ratios apply to Tax Office staff, local offices nonetheless carry out a greater number of Revenue investigations and so account for the vast majority of tax yield in cash terms.

### **TECHNIQUES**

The organization of investigation units to some extent gives rise to a degree of specialisation in techniques used by investigators. However there are some approaches which are common to many areas of regulation . What follows will seek both to identify the major techniques commonly used in most Revenue investigations and to outline the particular techniques of specialist officers. In so doing the analysis will concentrate upon the regulation of the individual taxpayer, small trader or businessman: this will enable a meaningful comparison with the regulation of the



supplementary benefit claimant. The principle emphasis will therefore fall upon local office investigations, (both routine enquiries and compliance initiatives), as these most often affect the individual taxpayer. The analysis will fall under the following headings:

Routine Investigations and Compliance work:

- (a) Making connections - utilising information already to hand.
- (b) Targetting - occupations and locations.

Specialist Investigations

(1) Routine Investigations and Compliance work.

(a) Making Connections is a phrase which will be used to describe the investigatory work which centres upon the use of information routinely supplied to the Revenue from a variety of sources. For instance, all firms are required to inform the Revenue of fees, expenses and commission paid out to individuals or traders. Financial institutions such as Banks and Building Societies also furnish the Revenue with information, providing details of interest payments made to a sample of their investors. The task of the routine investigator is simply to trace the tax records of the individual who has been paid fees/commission/expenses, or who has received investment income and to check that they have fully declared the monies received.

According to one senior Revenue official interviewed, although much information is already to hand within local offices, resources are insufficient to follow up more than a small selection of cases for investigation. Recent compliance initiatives are an attempt to utilise such available information, but these efforts only scratch the surface in terms

of the numbers of investigations which could be undertaken, given increased staffing.

Examination of business returns, undertaken by Inspectors of Taxes, may also reveal potential avenues for investigation. For instance, in examining the accounts of medical practices locum fees are recorded: these may then be traced back to check if the recipient has declared them. The payment of 'ash cash', (discussed in chapter 4 (1) above) was revealed by examining returns of fees paid out by crematoria. Inspectors of Taxes examine in depth a small selection of traders' accounts (only 2.8% of eligible accounts in 1984/5): in addition to discovering irregularities in a high proportion of the traders' accounts challenged, (91% in 1984/5), in-depth examination of accounts may also pave the way for a routine investigation of other individuals who may or may not be known to the Revenue. For instance, an Inspector may follow up details given in such accounts of payments made to other traders or sub-contractors in order to check that these third parties have made full declarations of income on their own tax returns.

Employers also have to complete end of year Returns (P14) giving details of pay, tax and National Insurance in respect of their employees. In addition a supplementary Return (P38) must be completed for employees who are paid over £100 in the tax year but who are not liable to pay P.A.Y.E. tax (Inland Revenue leaflet P7, 1983). This return in effect provides a list of staff who are employed on a casual basis and/or at wages less than the taxable minimum. If individuals are not earning taxable levels of income in respect of one particular source of employment, they may effectively undertake several part-time or casual jobs and still remain 'invisible' to the Revenue, with the exception of their appearance on returns P38.



Therefore such 'ghosts' can in theory be traced through end of year employer's' returns, although the chances of this are severely limited because of lack of staff to regularly and thoroughly examine this information, readily supplied to local Tax offices. An infamous example of the employment of 'ghost' casual staff was revealed in the case of Fleet Street, where names such as 'Mickey Mouse' appeared on official employer returns (see Chapter 4 (1a) above). The institutionalised nature and sheer audacity of this particular fiddle are perhaps indicative of the Revenue's inability to cope with routine examination of information already to hand: clearly the Fleet Street printers who used the names of Disney characters felt confident that they were not likely to be discovered !

Making connections may also involve tracing the local agents of large firms who, (in cases ranging from double glazing to football pools), pay on a commission basis and similarly provide lists of employees. Forms S16 (returns of commission) can therefore provide another source of information, from within the Tax Office itself, which investigators may follow up. Once again the investigatory techniques involved in the tracing of agents resembles a paper chase - from information given in the firm's end of year returns to the tax records of the income-recipient. But the Inland Revenue is currently speeding-up the tracing process, partly through the computerisation of the records of P.A.Y.E. taxpayers, and in the development of a scheme of National Tracing using computers. In years to come the 'paper chase' may involve no 'paper' at all, and may well facilitate quick and efficient tracing of individuals receiving remuneration from whatever geographical or occupational source. In the meantime, the connections which are made are dependant upon the experience and expertise of tax Inspectors and (lesser grade) compliance officers in local offices in



utilizing available information to best effect, given constraints of resources and manpower.

Another area of potential investigation based upon using information supplied to the Revenue is that of expenses paid to directors and highly paid employees. As explained in Chapter 4, firms supply details of expenses they pay out which may be checked against the declarations of the employees concerned. Since 1982 regulations governing the taxation of expenses and allowances, such as the company car which had previously been regarded by employees as a perk, have been considerably tightened. Also the use of financial penalties for false expenses claims was extended. However, the Revenue still relies on the co-operation of employers to implement these regulations and tax officers I have spoken to believe that many abuses, involving employer's connivance, remain. Abuses may involve illicit payments to employees for the types of expenses outlined in Chapter 4 (1a) above - firm's cars (and private mileage), provision of private health care, entertainment allowances, membership of leisure and sporting clubs, gift vouchers and credit facilities and so on. It is likely that fiddles involving 'incentives' through gift vouchers, expensive holidays and entertainment are particularly evident at Christmastime. But Revenue staff are no longer sure what form such fiddles now take because firms have been very successful in keeping 'one step ahead of the taxman' in seeking to motivate their most 'valuable' employees. Far more time and manpower would be necessary to examine expenses returns in depth in order to reveal the nature and extent of such abuses: in the current political and ideological climate, (in which competitiveness and profit maximization are so highly valued), it is difficult to see resources being directed towards regulating

the 'perks' of so-called successful businessmen (see Chapter 6 for implications for such 'perks' of the 1988 budget).

The Revenue's current compliance initiatives which stress cost-effectiveness therefore tend to concentrate on easier targets which offer greater pay-off, in terms of tax recouped, for less investment, in terms of staff and time: thorough examination of employers returns of expenses paid involves is very time-consuming. As already discussed, returns of fees, commission and casual employees are becoming increasingly easy to trace, (with computerisation and National Tracing), and so may offer the Revenue a means of identifying tax evaders such as moonlighters and, to a lesser extent, ghosts.

Ghosts are unknown to the Revenue and their detection often involves the targetting of the areas of trade in which, (according to experience), they are most likely to be found (see section (b) below). But a relatively easy technique which involves making connections entails the scrutiny of classified advertisements in the local press and the tracing the advertiser/trader to check if they are known to the Revenue. According to one senior Revenue official such advertisements are 'fair game', particularly for compliance officers who have a certain degree of operational freedom. This freedom has enabled a pro-active approach to investigation work previously not characteristic of the Inland Revenue. It is to this proactive approach, (involving in particular the targetting of likely areas of evasion), that discussion now turns.



(b) Targetting Occupations and Locations.

In analysing the techniques individuals use to fiddle tax, a strong link emerged between certain occupational groups and the availability of both the opportunities and justificatory rhetorics facilitating tax evasion (Chapter 4 above). The building, catering and seasonal trades, for instance, offered specific opportunity structures. Although tax evasion is a covert activity, these areas of particular abuse are identified through the experience and vigilance of tax officials. As a result, there is sufficient knowledge of existing areas of fraud upon which to estimate what the most productive areas for future investigation are likely to be. When the Revenue first set-up Black Economy Units (or, in official terms, Schedule D Compliance Units) on an experimental basis in 1981, targetting was clearly evident: in addition to the focus on particular forms of evasion ('moonlighters and ghosts') the experiment concentrated staff 'in areas of the country thought ripe for action... such as holiday resorts and big cities' (Assessment, November 1981).

Compliance units are now a feature of Revenue investigatory work throughout the country, and the essential characteristics of the original experimental groups remain: the focus on moonlighting and ghosts utilizing methods which involve the targetting of particular trades or locations:

'We'll do a purge... concentrating on a single area to take note of all the commercial activity going on. Or we might decide to look specifically at particular trades or occupations.'

(Compliance officer, quoted in Network July 1985)

Caterers and video shops were given as examples of possible targets. Other common targets are street markets, auctions and taxi ranks. Officers also



use their own initiative and experience of their locality in setting up investigations:

'Bristol investigated sales of fishing permits at a local lake and were able to disprove protestations that fishing was rare in winter months by means of field (or bank?) visits.' (ibid)

A degree of operational freedom enables compliance officers to follow their own 'hunches', providing that they eventually prove fruitful. For instance, perusing local council's planning applications (largely for home extensions), in order to identify the architect's signature on plans and thereafter to follow-up any non-declarations of fees on the architect's own income tax returns. Another proactive technique involves attending auctions, (whether selling antiques, household goods or cars), and noting down the names of multiple purchasers suspected of being 'ghost' dealers. But whatever the target or the modus operandi of the investigation, the Revenue ensure that adequate evidence is gathered before interviewing suspected fraudsters:

'We get leads from a variety of sources. But we can't just go on hearsay. Unless the information is quite specific we need to back it up with our own enquiries. That could mean a visit for observation or a check with other sources. But it's only when we're pretty sure of our facts that we confront people.' (ibid)

'Leads' and 'information' are more likely to come from other Revenue staff in local offices who have come across irregularities in the course of their routine work than from anonymous tip-offs, which form an important source of D.H.S.S. investigations. 'Other sources' against which compliance officers' information is checked do not normally involve formal links with other Departments, except contact with the D.H.S.S. if the Revenue needs to

check individual's National Insurance numbers. (Informally, however there may be some utilisation of the D.V.L.C. computer in checking car registrations). Links with the police are not a regular feature of Revenue enquiries at local level: though, as will be seen, the same cannot be said of D.H.S.S. investigations!

It may appear that there is an element of 'cloak and dagger' attached to some aspects of compliance work: for instance the use of surveillance and radio-links by some units. In addition the vocabulary associated with their activities evokes somewhat dramatic images: 'detectives... ghostbusters... leads... mission' (ibid). But this perhaps reflects the Inland Revenue's concern to project a more dynamic image of investigation work, and hence to deter fraud and encourage public compliance. At a more down to earth level, some compliance officers use such imagery in a jokier fashion, (for example one man-and-woman team being referred to as Dempsey and Makepiece, after the glossy T.V. detective series). But the proactive approach of compliance investigations is still a relatively new phenomenon in the Revenue. In contrast to the situation in the D.H.S.S., a specific vocabulary (used by the investigators or their 'suspects'), has yet to emerge: when one compliance officer was asked if any nickname or distinctive epithet was given to him and his fellow officers by the 'punters', he paused and then replied 'They just call us "bastards"!'.

According to a senior Revenue official, the staff who are most likely to be chosen for compliance work are younger Tax Officers Higher Grade T.O's H.G.) who are likely promotion candidates: they are therefore likely to be ambitious, hard-working and well motivated. The identification of moonlighting and ghosting as the principle area for their investigations is in itself a product of the perceived need (in view of Departmental cost



constraints), to utilise 'lower' level staff in order to gain most cost benefit from investigation work. Although the 'cream' of T.O's H.G., these officers (who have a short intensive training), are not trained in the legal aspects of their work: I was told that 50% of compliance cases are passed on to Inspectors of Taxes for consideration of financial penalties or questions of law (O.V.S., 1985). Clearly the primary rationale of the Revenue in relation to compliance units is to recoup the maximum tax due and so encourage 'compliance' in the most cost-effective manner. Personal 'targets' which officers are supposed to meet do play a part in maintaining this effectiveness: compliance units are under an obligation to pay for themselves. But this does not present any problems, simply because of the scale of tax evasion itself - there is always plenty of abuse which can relatively easily be discovered by the techniques outlined above.

#### Specialist Investigations.

The work of certain specialist investigation units will only be mentioned briefly here because their role is too specialised to affect the many individuals, traders and small businessmen who form the focus of this research. The specialist units which are most directly relevant for the purposes of this thesis are the Board's Investigation Office (B.I.O.) and Enquiry Branch: this analysis will therefore concentrate primarily on their investigatory techniques.

The B.I.O. are regarded as the Board's police in the sense that the offences that they investigate come closest to what could be termed 'crimes' in the conventional sense. As mentioned above, their primary focus is the construction industry and frauds associated with sub-contractor certificates 714. Many of these frauds involve forgery, falsification,



selling and theft of these certificates, hence the link between B.I.O. techniques used to combat these forms of fraud and 'police' methods. Prosecutions brought as a result of B.I.O. investigations usually involve charges for theft, forgery, handling, deception or conspiracy (Network, January 1986). Techniques of investigation include elements of 'undercover' work: surveillance of suspects (using cameras and radios), long and irregular hours of work, and contact with other investigative agencies, such as Customs and Excise (ibid). Suspects are observed (often literally 'on site'), their activities monitored and visual and documentary evidence is collected. Although the cloak and dagger image may seem to fit such activities, it must be remembered that most sub-contractor investigations are focused on the seedy 'mean streets' of labourers' doss houses and hostels (ibid:5).

Cases may be referred to the B.I.O. by the P.A.Y.E. Audit section and local Tax District Offices, but most cases arise from within the unit itself (through examination of certificates and 714 vouchers forwarded to a Certificate Centre). Although this specialist unit only investigates around 700 sub-contractor frauds per year, the sums of tax involved are huge: the tax known to have been evaded on cases dealt with in the year to 30th September 1985 was £35 million (ibid).

Other areas of fraud dealt with by B.I.O. include false claims to allowances and expenses (set against tax liability) and deed of covenant frauds. In the case of the former, cases regarded with suspicion (because of amendments to invoices, for instance), are referred to the B.I.O. from local offices. Similarly, if local officers suspect a 'ring' of deeds of covenant, the B.I.O. may become involved. This relatively new form of fraud is likely to be concentrated on solicitors and accountants who claim tax relief on

'manufactured' covenants to each other's dependants (see Chapter 4 (1) above). Losses in tax can be considerable - hence the abolition of all but charitable covenants announced in the 1988 budget.

The B.I.O., nonetheless, represent a unit set up to deal with a particular form of tax fraud, related to one key industry - construction. Administrative and legislative changes in the last decade have sought to counter tax evasion in the construction industry through the use of 714 certificates (with photographs of the holder as an added safeguard), and a system of vouchers which the sub-contractor presents to the main contractor. Nonetheless, the entire 714 system is circumvented if main contractors themselves connive to employ 'subbies' who have no 714 (and are not therefore bona fide sub-contractors). Main contractors may collude in this way in order to pay 'lump' subbies less than bona-fide contractors and so cut costs. One large contractor explained to me that this practice was commonplace and that 'you have to' fiddle in this way 'to keep in business'. Ultimately the only techniques which could be employed to counter such frauds would involve far greater manpower, surveillance and higher profile policing of the construction industry than the B.I.O. are capable of, and than would be considered politically acceptable.

Enquiry Branch specialises in the investigation of business accounts and also any irregularities concerning the work of professional tax advisers. The regulatory techniques involved are lower profile activities than those of many compliance and B.I.O. officers: essentially what is involved is the in-depth examination of trading accounts by highly qualified staff:

'[Enquiry Branch] specialises in the investigation of fraud

involving trading profits, work demanding a detailed knowledge



of book-keeping and accountancy as well as a full technical knowledge of income tax.' (Cmnd.8822, 1983:9.10.2.)

It is extremely difficult to identify specific techniques used in such a technical area of investigation. In brief, although the examination of business records is a complex process, Enquiry Branch officers seek to identify and pursue suspected irregularities in business accounts: initial enquiries may include looking through invoices for 'dummies' or alterations, looking for 'dummy men' in records of wages paid out, checking Directors' expenses accounts and checking the numerical sequence of invoices for missing numbers (Association of Inspectors of Taxes, 1982). Most referrals to Enquiry Branch come from District offices who have reason to believe one of the following: that profits in excess of £20,000 are understated, that forgery or collusion with intent to defraud the Revenue has taken place, or that false statements of 'full disclosure' have been made by a taxpayer who has been under investigation (Cmnd.8822, 1983:9.11). Cases arising from 'Informers' number only 14 to 15 per year on average (ibid).

The difficulties involved in analysing Enquiry Branch techniques reflect the difficulties which the investigators themselves face in their task: as one witness to the Keith Committee put it,

'the taxpayer builds a taxproof castle; if the Inspector could see inside it he would see the weaknesses in the castle's structure, but the taxpayer does all he can to make sure that the Inspector never sees inside it.' (ibid:7.3.5.)

If accounts do reveal serious irregularities, Enquiry Branch officers interview the suspect 'by appointment in the presence of the taxpayer's advisers' (ibid:9.13.3). The taxpayer and his advisers initial a verbatim copy of all questions and answers as the interview proceeds, and receive a



copy at the end. These interview techniques and respect accorded to the taxpayer's rights contrast sharply with the treatment of suspected supplementary benefit fraudsters at the D.H.S.S. interviews described below.

## SUMMARY

Cost-effectiveness and pragmatism are the apparent rationales which underlie Revenue investigation policy, but the effective rationale is, rather, a desire to seek the compliance of the taxpayer. Therefore, in effect Revenue policy implicitly acknowledges the primacy of the coercive view of personal taxation and, ultimately, enables empathy for the tax evader. This is evident in the view expressed by a former Enquiry Branch officer who described the Revenue's financial settlement policy as 'The only sensible way to carry on' because 'after all, we have all sinned!' (I.T.V. World in Action, 7.2.83.)

The analysis of enforcement policy and practice has shown that official discourses concerning cost-effectiveness and the pragmatism of tax collection are problematic. For example, cost-effectiveness does not result if (as under current policies), insufficient staff and resources are directed to anti-evasion work, and so vast amounts of tax remain unpaid. At the same time, anti-evasion initiatives in recent years have centred upon relatively 'easy' targets which demand the least time and money to investigate. Thus the richer pickings which are available through the investigation of highly paid taxpayers, directors and trading accounts are largely ignored in favour of the type of investigations which are quick (and cheap) to undertake, with fewer and low-level staff. In the longer term cost-effectiveness is not served by such policies. Furthermore, the

emphasis on cost-effectiveness may be open to serious criticism on the grounds that equity as well as efficiency should be a principle underpinning the work of any enforcing department.

The dominance of 'pragmatism' in the justificatory rhetoric of policy makers is also more apparent than real: beneath this justification is the desire to 'spare the taxpayers feelings'. Although there are indeed practical difficulties in mounting successful Revenue prosecutions, such difficulties cannot alone explain a policy which advocates financial penalty in all but a very few of the 'most serious' of fraud cases, whilst almost thirty times as many individuals are likely to be prosecuted for supplementary benefit fraud. (see (3) below). The effective discourse shaping such policy therefore reflects the coercive view of tax - as an intolerable inquisition - rather than the citizenship view and thus buttresses the ideology of the free market rather than social justice.

Nevertheless, the citizenship view is still invoked in order to maintain the integrity and legitimacy of the tax system: hence the Thatcher government, though committed to New Right free market economic policies was forced to invoke the citizenship view in launching compliance initiatives which were necessary for two reasons: first, to maintain the credibility of the Revenue as an equitable enforcing department. Second, to collect revenue which was essential to the state in a time of economic stringency. It is misleading, therefore, to see the state as immutable or monolithic: its policies are moulded by specific material conditions under which it may be possible to invoke contradictory discourses. It is in the context of such contradictions that differential responses to tax and benefit fraud must be located and explained.



## (2) SUPPLEMENTARY BENEFIT INVESTIGATIONS.

### (a) Policy.

The formal criteria which appear to govern D.H.S.S. policy are similar to those of the Inland Revenue - the safeguarding of public funds whilst assuring the rights of the individual. However, as N.A.C.R.O. has indicated, there are inherent tensions in the practical application of such principles:

'... there is an unavoidable tension between the Department's first duty - prompt payment of benefit and relief of need with due consideration for people's dignity and welfare - and the highly important but secondary function of combatting fraud and abuse.'

(N.A.C.R.O., 1986:16)

Whilst policy statements apparently emphasize the importance of efficient payment of benefits for the relief of need, effective D.H.S.S. practices involve rigorous testing by the D.H.S.S. to establish an individual's 'need', rather than the payment of benefits as of 'right'. The concept of rights may be subverted by policies which concentrate on prevention of abuse rather than on the efficient and courteous delivery of an individual's benefit entitlement.

The tension between the department's first duty and its secondary function (identified by N.A.C.R.O.) has been exacerbated in recent years by certain changes in policy. Prior to 1980 it had been recognised that

'the first defence against fraud and abuse is a good standard of investigation and interviewing by officers dealing with ordinary claims on the counter and by home visits...prompt and humane attention to individual needs.'

(Supplementary Benefits Commission, 1979: 10.43)



Since then, though ministerial assurances have asserted that good standards of service to claimants are being maintained, Civil Service Trades Unions have voiced considerable disquiet over shifts in policy since 1980 which have focussed increasingly on the Department's enforcement role, rather than upon the primary role of ensuring that individuals receive the state benefits to which they are entitled under the law. For instance, reductions in the home-visiting of claimants, administrative changes in the handling of claims, staff cutbacks and new anti-fraud measures (see (b) below) have all been implemented since 1979 with the apparent justificatory rationale of 'efficiency', and all too have effected a deterioration in service to, and relations with, claimants.

The policies discussed above are the product of certain material and political preconditions. Political priorities have, in particular since the election of the Thatcher government in 1979, been set in accordance with supply-side economics geared to monitoring and controlling public expenditure. Despite the fact that the civil service is not an industry, outside industrial and commercial advisers (such as Sir Derek Rayner), were brought in to create a more 'efficient' service. Although the profit motive was not applicable, the notion of 'financial management' was substituted: from 1982 local D.H.S.S. office managers were delegated responsibility for setting objectives and promoting incentives to ensure that their budgets were not exceeded (McKnight,1985). But, as argued by McKnight (a senior official for the Society of Civil and Public Servants - S.C.P.S.), the work of the D.H.S.S. cannot be measured simply in quantitative terms: 'The quality of work and the level of service to claimants must also be considered' (ibid:32). Economies in purely cash terms may have detrimental effects, as

indicated to the Public Accounts Committee, who were told in December 1986 of a series of 'prizes' paid to local office staff who introduced economies:

'An office prize of £35 was given to the D.H.S.S. Hornchurch office for the idea of employing part-time cleaners rather than full-time staff, to save National Insurance contributions and meals allowances even though the public lavatories were not cleaned during the day.'

(Guardian, 2.12.86.)

Although only a seemingly minor example, cutbacks such as this may have more far-reaching effects on claimants and office staff who are caught up in a vicious circle of tension caused by high arrears of work and consequently increasing numbers of office callers: as one D.H.S.S. officer commented,

'D.H.S.S. public waiting rooms have absorbed the anger, frustration and despair of claimants long enough for us to know that any peace in such places is at best fragile...Irregular incidents of people urinating, vomiting or even defecating in the waiting room can also add to the standard discomforts endured during the wait.'

(Mandla, 1987:14)

The 'wait' involved in many offices runs to several hours. In the south London (Oval) office, described by Mandla, claimants begin to queue outside the office at 8.00am and 'at 9.30am the first 150 are granted access and the remainder are turned away' despite the fact that the D.H.S.S. is officially meant to provide six hours of public service every day (ibid). Inevitably, anger and frustration spill over in the form of violence: attacks on D.H.S.S. staff are on the increase, largely as the result of the 'squeeze' on claimants brought about by staffing cuts rather than because of any demonstrable change in the nature of the claimants themselves (Coetzee,



1983; Mandla,1987)). According to one D.H.S.S. official I interviewed the increasing number of assaults on staff is bound up with several recent policy changes: he argued that fewer home visits to claimants had led to more mistakes being made by staff who calculated benefits due. In turn, these mistakes, (and the consequent disruption to benefit payments while correction takes place), led to desperation on the part of claimants and to soured, hostile relations with D.H.S.S. staff. This argument is supported by the evidence of independant surveys on the quality of service provided to D.H.S.S. claimants(C.P.A.G., 1985; P.S.I.,1985), by statistics demonstrating increases in the error rates of the D.H.S.S.(Beltram, 1984) and by evidence provided by D.H.S.S. staff Trades Unions: for instance, a S.C.P.S. representative stated that an audit in the Swansea area had shown 'that 60% of payments made to people in urgent need were wrongly calculated because staff were under such pressure.'(Guardian, 12.11.86). Another S.C.P.S. representative graphically illustrated the consequences of staff cuts on claimants and staff alike in an inner London office:

'People queue outside from first thing in the morning....Sometimes they wait up to eight hours, and then their papers might be missing. Management have created a state of siege following violent incidents and there has been a 50% staff turnover in the past year.'

(Rose Eagleson, quoted in Guardian, 12.11.86)

Accounts such as this demonstrate the tension between the D.H.S.S.'s two functions in practical terms: the primary function of ensuring an individual's rights to benefit whilst according due respect does seem to have been rendered impossible in the face of policies aimed at cost-cutting. At the same time as staffing at local offices has been squeezed, additional staff have been made available for the Department's (secondary) function -



the prevention of fraud and abuse (see (b) below). Two examples serve to illustrate the severe problems, for local staff and claimants alike, which such contradictions can create: first, the collapse of the administration of social security payments in Birmingham during 1982-3. Second, the situation in Oxford D.H.S.S. offices in 1982.

In Birmingham, economic collapse had put enormous stress upon local D.H.S.S. offices as 27,702 additional supplementary benefit claims were made in one twelve month period leading up to the crisis of September 1982 (Coetzee, 1983). But this increase in workload had been accompanied by reductions in staffing: in Handsworth, for instance, the number of claimants had increased (over 3 years) from 18,160 to 20,362 while staff had decreased from 244 to 199 during the same period (ibid:17). By September 1982 the Erdington office 'looked as if it had been struck by a tornado': storage space for casepapers ran out and files were stored in cardboard boxes or piled up on the floor, 1,500 pieces of post were outstanding and hundreds of callers (either by telephone or office call) were complaining of delayed benefit payments. Coetzee explained the sequence of events which finally led to a strike, closing the office for eight months:

'Two of the three receptionists telephoned in sick. The third went to open the office up and found about 80 people lined up outside. She...burst into tears. Three other staff were drafted in from other parts of the office to run the public counter. In the domino effect this creates... three desks were left unattended.' (ibid:22)

Inevitably empty desks meant yet more delay in dealing with outstanding claims, phone calls and post. This domino effect thus contributes to a worsening of relations between staff and claimant in which feelings of anger, mistrust and degradation (see Chapter 4 (2b) above) are rife. But

staff and claimants were, (and still are), both victims of a government policy which has stressed departmental economies at the expense, literally, of service to claimants. In the Birmingham example it is significant that the emergency centres which were set up to administer urgent payments during this dispute were staffed, in part, by officers of the Special Claims Control Unit. Political concern to counter fraud and abuse had overridden cost concerns, as this area of work was expanded at a time of acute cuts in overall staffing. At the same time the D.H.S.S.'s apparent policy aim (of ensuring prompt payment of benefits to those entitled to them by right), was subverted by the latent policy goal of cutting government expenditure, whether by a crude 'welfare rationing' in overworked offices or by effectively deterring /minimising claims to benefit through the Department's emphasis on anti-fraud work.

A situation of stress and frustration similar to that described in Birmingham offices came to light in Oxford in the same year, as economic recession and hence increasing numbers of claims coincided with effective reductions in local office staff. The Oxford D.H.S.S. office was staffed in accordance with a notional 'live caseload' of 12,742 claimants. By August 1982 the actual caseload had risen to 19,113 'Yet because of a shift to fraud and investigation work, the number of staff actually dealing with benefits [had been]... reduced' (Frane, 1983:72). This imbalance became all the more evident as the anti-fraud swoop 'Operation Major' was mounted in September 1982 involving operational costs estimated at £180,546 , this figure not including the costs of the 175 prosecutions which resulted (ibid:25. see also Chapter 3 for analysis of the media coverage of Operation Major). Local civil service trades union officials repeated the view of local fraud officers when they asserted



'Had the office been adequately staffed, both in their own section and in visiting and on interviewing time, then we would have coped with the problem without the need for any exercise or operation.'

(B.B.C. Grapevine, 1983:7)

Therefore in both Birmingham and Oxford the government's official policy of promoting efficiency, cash limits and cost-cutting, had been used to justify staff reductions in routine local office work. At the same time certain political, economic and ideological preconditions (see Chapter 3) promoted the effective contradiction of those policies through the increased expenditure on anti-fraud initiatives. As argued above, the New Right ideology which interprets taxpayers as victims of coercive state regulation views many recipients of state welfare benefits as being cossetted by a state which denies them incentives to effort and self-motivation. But, the effect of such ideas in practice has involved a far greater degree of intrusion by the state into the lives of citizens on welfare than previously: for example, through a series of complex work-tests for unemployed claimants, compulsory training schemes for young people (who lose entitlement to benefit if they refuse to take part in a scheme - see Chapter 6), and the randomised policing of lone mothers by S.C.C. units (see below). Such state control over the lives of the poor contrasts starkly with the state's efforts to de-regulate the lives of the rich - particularly of employers, whether large firms or small businessmen. Once again it may be argued that it is from the operation of politically-based contradictions such as these that differential response to tax and benefit fraud derives.

Further contradictions between apparent (official) policy rationales and their effective results in practice are evident when analysing other administrative and procedural changes introduced with the apparent aim of



reducing costs and promoting departmental efficiency: for instance, reductions in home visiting and the consequent widening of the system of postal claiming. Official rationales were again belied by the practical consequences of these policies, geared ostensibly to 'cost-effectiveness': as argued by D.H.S.S. staff themselves, reductions in home visits may lead to more errors and more abuse by lessening direct contact with claimants. Similarly the postal claim form (known as 'the purple peril'), may lead to incorrect payments of benefit, either as a result of claimant's errors in completing the form itself, or from the increased opportunities for fiddling in a system where postal (not personal) contact is the norm. It can also be argued that the difficulties which postal claiming can present for some groups of claimants may serve either to deter them from claiming altogether, or may prevent them from obtaining the full benefits to which they are entitled: this may be a particularly pertinent argument in the case of elderly claimants and those from ethnic minorities (Beltram, 1984). This argument in turn raises the issue of possible 'welfare rationing' and involves an assessment of D.H.S.S. policy in relation to its' first function - ensuring that individuals receive the full benefits to which they are entitled under the law.

In political circles the under-claiming of benefits can be regarded as tolerable, and even acceptable, for two sets of reasons: first, because low take-up is seen to reflect a (laudable) reluctance on the part of citizens to rely upon state benefits. Second, because the social security system could not cope if all citizens did claim all the benefits to which they were entitled (Donnison, 1982). The Institute of Directors reflect these views:

'Some think these low take-up rates a weakness of the present system; we think them a strength. First, a low take-up saves large

amounts of Government spending. Second, it is in substantial measure the result of self-selection amongst potential users of the welfare system...some people are reluctant to accept such payments...for reasons of self-respect. We see nothing wrong in this sentiment and many would consider it admirable.' (in N.C.A.S.S.C., 1985:2)

Government's ambivalence to improving benefit take-up can thus be seen by some as a pragmatic response to burgeoning public expenditure on social security and the desire to promote an unwillingness to rely on state welfare. This may ultimately lead to a situation in which 'entitlement' to benefit means little and governments effectively ration welfare benefit payments at their source:

'[The government] never seems sure how many claimants it wants to get what they're entitled to. A recent example is the system of single payments for one-off expensive items like cookers and beds. They were going to a tiny minority of the clients eligible. Last year, welfare rights campaigns...led to a huge increase in claims. The government's response was to tighten up the regulations.'

(Laurance, 1987:23)

As mentioned above, no equivalent to the Taxpayers' Charter exists for supplementary benefit claimants. The regulations governing the payment of welfare benefits are extremely complex, yet the D.H.S.S. seems to believe that its responsibility is simply to pay benefits and not to advise people to claim them: according to a leaked memorandum, the D.H.S.S. attempted to 'postpone or change' a Channel 4 television campaign advertising welfare benefits (planned for February 1987), because it would involve too much extra work for D.H.S.S. offices (Guardian, 28.2.87). As Laurance notes, attempts to encourage claimants to obtain their full rights are met with



hostility: the work of the 'benefit shops' and advice centres who advised claimants to request exceptional needs payments was described by Conservative M.P.'s as 'total abuse' and furthermore 'the taxpayer is being ripped off by this gross abuse of the system.' (Hansard 21.7.86. Cols 22+24). Vitriolic attacks like this are rarely made upon accountants and tax advisers who seek to maximise financial benefits for their clients. Yet, as Laurance notes,

'Helping people get what they are entitled to is not equivalent to advising the well-off on tax avoidance. It is not a matter of maximising income but of making survival possible.' (ibid)

If information itself confers power, then the taxpayer has far more power than the supplementary benefit claimant. This inequality is accentuated where taxpayer and claimant are accused of fiddling, (as will be evident in examining the investigatory techniques used to regulate the latter). Moreover, lack of knowledge on the part of benefit claimants may be seen as essential in order to render an increasingly unworkable system workable. Lack of knowledge (or reluctance) to claim welfare benefits can also be seen as the result of the effectiveness of certain political ideologies: notions of the 'undeserving poor', the cossetting welfare state and the 'scrounger' mythology inevitably affect benefit take-up adversely (Golding and Middleton, 1983; C.P.A.G. 1986).

In 1983 supplementary benefit unclaimed was estimated at £570 million p.a. (Hansard, 30.10.86. Cols 232-4). The extent to which politicians actively foster such benefit losses to citizens (and gains for the treasury), is debateable. But what is more significant for the purposes of this thesis is the relative dominance of the issue of fraud and abuse on the public and political agenda, over the 'hidden' issue of the amounts of



unclaimed welfare benefits which far exceed all estimates of fraud losses. The material and ideological conditions enabling the effective displacement of the D.H.S.S.'s primary function of ensuring the individual's rights and welfare (N.A.C.R.O., 1986), have been outlined above in Chapter 3 (see also Chapter 6 below). The D.H.S.S.'s function can alternatively be seen in terms of 'protecting the public purse', both through the rigorous testing of means and policing of claimants and through cutting costs in the administration of the benefit system itself. These operative rationales underlying D.H.S.S. policy, (particularly since the abolition of the Supplementary Benefits Commission in 1980), are also revealed through an analysis of the organization and practice of supplementary benefit fraud investigations.

(b) Regulation.

The scale of the enforcement task facing the D.H.S.S. is far from clear. As mentioned above, estimates of the extent of supplementary benefit fraud show extreme disparities: for instance, such fraud was estimated at about £15 million p.a. according to a D.H.S.S. official in 1980, but was alleged to be in the region of £500 million p.a. according to an 'economic adviser' to the Public Accounts Committee in 1983 (Chapter 3 (a)). Estimates of fraud vary in accordance with certain political preconditions and the effective D.H.S.S. policy rationales which result: if ideological conditions favour the 'scrounger' mythology and/or the dominance of New Right critiques of the welfare state, then counter-fraud measures must be justified in terms of the ubiquity of fiddling amongst the idle poor. Under such circumstances estimates of the scale of benefit fraud increase dramatically, and so counter measures are justified. In this way anti-fraud drives can be seen as effective products of political 'campaigns' based on anti-collectivist

ideologies, rather than as reactions to any objective change in the amount of fiddling taking place.

Regulation of supplementary benefit fraud is therefore organized and executed in accordance with political priorities. As seen above, the same is true of the regulation of tax fraud, although the practical consequences of those political priorities are very different. The regulation of benefit fraud is currently dominated by a liberal conception of the role of the state and by individualist (self-helping, 'on your bike') philosophy - the principles of social justice, collectivism and the concepts of universal 'rights' to benefit are not invoked. By contrast 'rights' figure strongly in the Taxpayers' Charter and in the practice of tax investigations. At the same time the philosophy of state de-regulation, individualism (self-helping, wealth-accumulating) and free-market serves to justify the actions of taxpayers who seek to maximise their income whether by avoidance or evasion of taxes.

Against the background of these political and ideological rationales must be set the material realities of investigatory practice - first, in terms of departmental organization and second, in terms of regulatory techniques used.

#### ORGANIZATION.

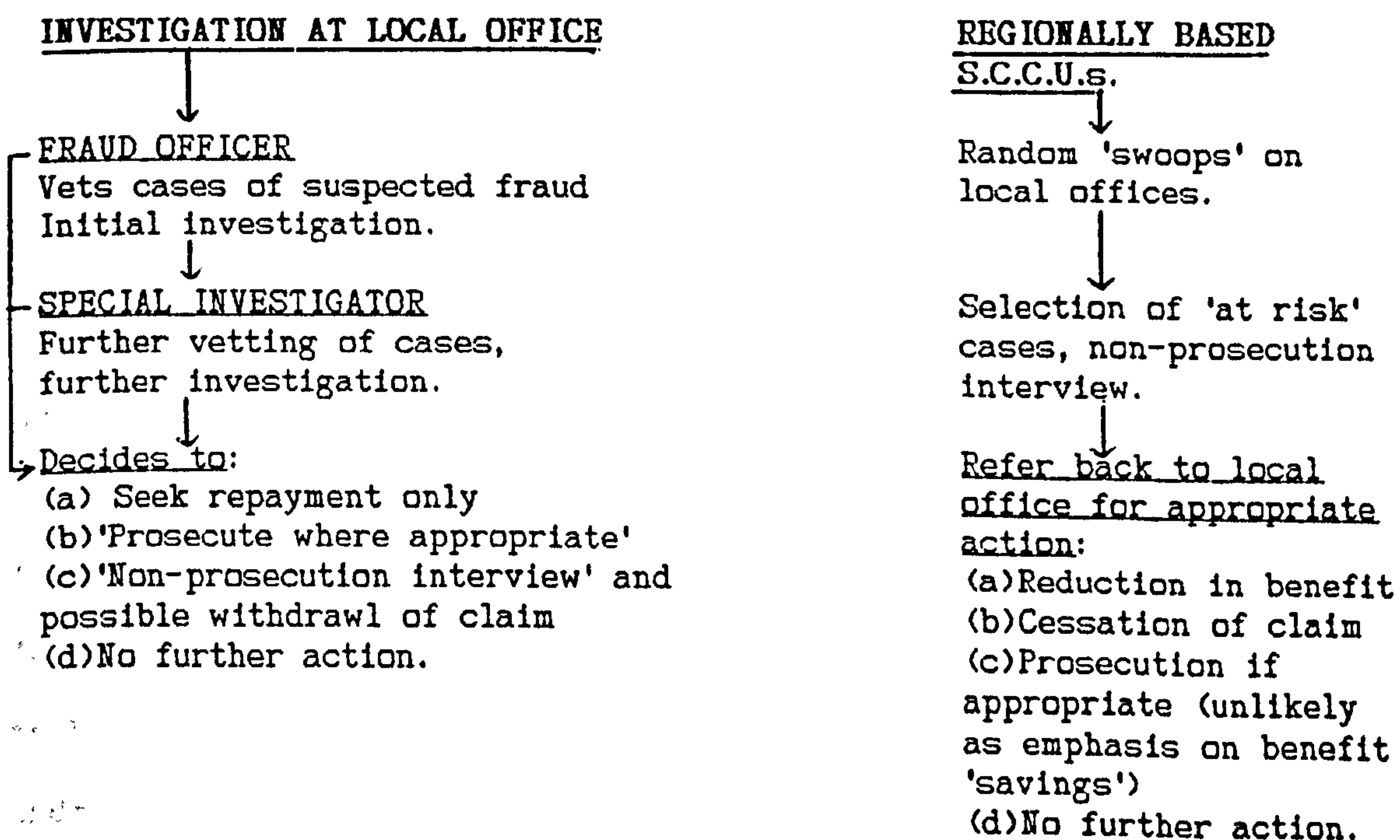
Investigation of supplementary benefit fraud is organised at both Regional and local office level and involves three types of officer:

- 1) Fraud Officers (F.O.'s) who are based at local offices
- 2) Special Investigators (S.I.'s) who have a greater degree of operational freedom, but still work in conjunction with local F.O's

3) Special Claims Control Units (S.C.C.U.'s) who from 1980-86 operated from Regional Offices and selected local offices for anti-fraud drives.

Table 5: 4 represents a simplified view of the main organizational channels through which investigations passed in the years 1980 to 1986. As will be seen below, in May 1986 changes were announced which affected the operation of S.C.C.'s, although the work of F.O.'s and S.I.'s remained virtually unchanged.

**TABLE 5: 4     DIAGRAMMATIC REPRESENTATION OF THE ORGANIZATION**  
**OF SUPPLEMENTARY BENEFIT FRAUD INVESTIGATIONS (1980-86)**




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Sources: D.H.S.S. circular F.I.G./21, 1983; N.A.C.R.O., 1986,



The D.H.S.S. has 451 local offices, (grouped in seven regions), which deal with the payment of supplementary benefit. Most offices have one or more specialist F.O.'s among the staff: in 1984/5 they totalled 1512 officers, and S.I.'s numbered 564 in addition (N.A.C.R.O., 1986).

1) Fraud Officers- are responsible for vetting cases of suspected fraud referred to them by other local office staff. Suspicions can arise in a number of ways: from a 'fraud awareness report' or 'signs of affluence' recorded by visiting officers, most frequently from anonymous tip-offs and letters from the public, or possibly from a 'hunch' on the part of visiting or fraud officers that a claimant is 'suspicious'.

2) Special Investigators- are responsible for investigating cases (often referred to them by F.O.'s), where further evidence is needed in order to establish if there is a prima facie case of fraud. This may entail working outside normal office hours and travelling beyond the local office area. (To this extent S.I.'s have greater operational freedom than F.O.'s)

3) Special Claims Control Units- S.C.C.U.'s were set up on an experimental basis in one region in the late 1970's and their anti-fraud activities were extended to cover the rest of Britain by 1981. By 1984/5 there were around 112 officers working from Regional Offices organized in teams of six (ibid:43). Teams selected certain offices within their region for anti-fraud drives, or 'swoops' according to local office staff. The techniques S.C.C. squads used in order to maximise 'savings' of benefit came under intense criticism (to be discussed in depth below), and when further increases in anti-fraud staff were announced in May 1986 'new' Regional Benefit Fraud Teams were set up to replace S.C.C.. But, significantly, the other innovation - 180 staff attached to inner city offices where board and lodging claims are common - is unofficially referred to as 'Board and

Lodge S.C.C.' despite the D.H.S.S. statement that S.C.C. techniques ceased in June 1986 (ibid:44 and O.V.S., 1986).

It is difficult to assess the effectiveness of the D.H.S.S.'s anti-fraud efforts because of the lack of systematic, comprehensive and reliable annual statistics. As mentioned above, since the abolition of the Supplementary Benefit Commission in 1980 there has been no form of annual report published which enables an assessment of the performance of Departmental investigators or an accurate assessment of yields (in terms of actual benefits saved) from investigatory work. The statistics that have been analysed in the course of this research - from parliamentary, departmental and anonymous official sources - indicate more about political and departmental policy priorities than about specific yields in cash terms. As I have already pointed out, there is a correlation between the size of estimates of the scale of benefit fraud and the political and ideological preconditions under which departmental policy is formulated. Similarly there is a 'knock-on' effect caused by spiralling estimates of the scale of fraud, the political energy then directed towards detecting more fraud, and the consequent need to demonstrate the effectiveness of anti-fraud policies by ever-increasing claims of success through investigation 'yields' netted. The end result is an inevitable (and tautologous) justification of the political and policy stance which was taken in the first place!

This circular rationale can be demonstrated in two ways: first, by seeking out and detecting more fraud, the D.H.S.S. are seen as 'saving' money otherwise paid out in benefits to the undeserving. Second, inflated figures of benefit savings can thereafter justify further fraud drives (and the negative attitudes towards benefit claimants which result) on the grounds



that there is far more fraud yet to be discovered. So the ideology of the undeserving 'scrounging' poor and the wasteful welfare state is both justified and regenerated through policies which concentrate on the issue of benefit fraud.

Bearing in mind the problems involved in assessing the alleged yields from D.H.S.S. investigation work, confidential documents indicate the following differences between yields, (per manyear), obtained by F.O.'s, S.I.'s and S.C.C. respectively in the year 1983/4:

F.O.- £39,000      S.I.- £103,000      S.C.C.- £128,000

These figures are based upon 'multipliers' which involve an estimate of how long frauds would have been likely to have persisted, and therefore how much benefit has been 'saved' as a result of investigatory efforts. In these figures a 52 week multiplier had been used, despite the fact that many claimants may well have re-claimed benefit only a few weeks after the completion of a fraud investigation, and so to assume that a full year's benefit had been saved would have been misleading. The use of 52 week multipliers came under a great deal of criticism: an S.C.P.S. union official indicated the possible misuse of such figures-

'Undoubtedly, far more people are being chased off the books for three or four weeks at a time...The government then multiplies the saving and is kidding itself that it is on target in its fraud drive.'  
(The Times, 4.8.80)

But the dissemination of such figures may, more importantly, 'kid' the public by persuading them of the necessity for such drives and reinforcing the circle of justification discussed above.

The D.H.S.S. eventually acknowledged the validity of some of the criticisms made of 52 week multipliers and in 1984/5 researched the



alternatives. The multipliers used thereafter varied according to the type of investigator dealing with the case, and this in turn reflected different categories of fraudster dealt with by F.O.'s, S.I.'s and S.C.C. The 'yields' per man year show considerable variations when reduced multipliers are used: for the year 1983/4 quoted above, the figure yielded by F.O's would be reduced from £39,000 to £25,000, the figure for S.I.'s would be reduced from £103,000 to £64,000 and, most significantly, the figure for S.C.C. would be reduced from £128,000 to £54,000. Clearly the use of misleading figures of benefit savings in the early years of the Thatcher government may have given the impression that detected benefit fraud was a more costly problem than, in measurable terms, it was. In addition the impression was given that anti-fraud efforts were more effective than, in measurable terms, they were. In summary, the anti-fraud policy adopted from 1979 was sustained and justified, in theory and in practice, by several misleading assumptions about the organization and efficiency of fraud investigations.

In the case of detected tax evasion, the yields quoted in the Boards' Annual Report represent figures of tax actually calculated as unpaid and found to be recoverable from the taxpayer as the result of investigatory work. This is in stark comparison to the situation in relation to benefit fraud where the actual figures of overpayments (due to fraud), recoverable as a result of investigations, are not available. Instead the D.H.S.S. has, since 1979, concentrated on demonstrating 'benefit savings' in order to prove the alleged merits of a 'cost-effective' approach to the investigation of fraud. The political principles advocated by this New Right administration were therefore realised in practice through the operational policies of two key enforcing departments - the Inland Revenue and the

D.H.S.S.. These principles are discernable in an accentuation of the disparities in the political and practical responses towards tax and welfare fraud in recent years. It is to the practice of regulating the latter that this analysis now turns.

### TECHNIQUES.

There is considerable overlap in the techniques used by the three types of investigator referred to above: for instance, all use some form of targetting and respond to anonymous tip-offs. The analysis which follows will therefore initially deal with the techniques common to most investigators and thereafter will concentrate on how these techniques are both amplified and modified in the case of S.C.C. work and intensive fraud drives. The following headings will be used:

- (a)Targetting: occupations and claimant types.
- (b)Anonymous tip-offs.
- (c)Fraud drives and 'Knocker squads'.
- (d)'Super-Snoopers': Special Claims Control Units.

#### (a)Targetting: occupations and claimant types.

The most common type of supplementary benefit fraud is failure to declare earnings and certain occupations have been identified as particularly likely to attract claimants who seek to fiddle by this means. Jobs involving part-time, casualised, seasonal and low-paid work are particularly open to claimants: their work status is vulnerable because work is itself covert, and they are more likely to settle for inferior pay and work conditions because wages are an (illegal) addition to benefits - they are in no position to bargain (see Chapter 4(2) above).



There is a commonsense knowledge amongst D.H.S.S. investigators of employers in their locality who are most prone to recruiting such a disadvantaged workforce: contract cleaning firms have been mentioned as possible employers of claimants, in view of the casualised, low-paid, part-time characteristics of the work. Similarly, in agricultural areas farms may well employ claimants for short-term seasonal work: for instance, fruit and vegetable picking or potato harvesting. In seaside areas the catering and holiday trades may provide similar casual work opportunities and throughout the country the construction industry, (discussed above in relation to tax evasion), offers opportunities for casual or temporary site labouring work. As a result of this knowledge investigators can target particular employers operating in their area, visit their premises and review lists of part-time and casual employees, later checking them against records of claimants names. If claimants are found to have received wages they are called to attend for interview by fraud officers and asked to give a signed statement of their circumstances, revealing all income. (The outcome of making 'false declaration', in terms of penalty and prosecution, will be discussed in part(3) of this chapter).

Investigation staff cannot guarantee the co-operation of employers in their enquiries, but information on employees is usually forthcoming. Co-operation is all the more probable if the employer has colluded with claimants' fiddles: a collusive employer (who has, for instance, suggested that claimants use false names to avoid detection - see Chapter 4(2) above), is hardly likely to refuse D.H.S.S. staff access and risk 'rocking the boat' still further. One claimant who did casual work on a farm told me that the farmer did not want to 'grass' on him, but felt he had no alternative because the D.H.S.S. 'were on to him anyway'. The techniques



involved in routinely targetting key employers, (inspecting their employee records and linking this information with claimant records at the local office), are therefore both simple and effective.

A recent description of life in the Durham coalfields showed an alternative view of the 'targetting' of probable areas of abuse, from a critical perspective. The author (Chesshyre) described the way in which dozens of unemployed men were to be seen collecting seacoal along the despoiled Durham beaches. This coal could then be sold for £2 to £3 a bag, providing an important source of income for the families of the men who collected it. According to one such man the 'dolies' or 'Nashies' (the latter euphemism for the D.H.S.S. investigators being a throwback to the days of the National Assistance Board), lay in wait observing those who collected the coal. The author wryly concluded,

'If the dolies can prove this seacoal is being sold....they can stop benefits and haul the beachcombers into court. A triumph for the hard-working taxpayer over the shiftless, workshy scrounger....If several hundred residents of Brighton spent 12 hours a day bent double in the surf - garnering what amounts to waste - in order to keep their families in decent rather than indecent poverty, the scandal would not be tolerated.' (Chesshyre in The Observer, 6.9.87)

Clearly it is a matter of political values whether the 'scandal' here is to be defined as the supplementary benefit fraud itself, or the material conditions which generate the necessity for it.

Once certain jobs or locations have been targetted by investigators, then techniques of surveillance and identification may also come into play. In the Durham example, the individuals scavenging for coal would have to be identified and their movements traced in order to prove that a financial

gain had been made by selling the coal. Special Investigators have operational scope for following claimants by car and for working out of office hours, but mistakes can arise. For instance, a self-employed builder whom I interviewed was followed to work by D.H.S.S. investigators, to a site several miles from his home, having been wrongly identified as a supplementary benefit claimant. Similarly a D.H.S.S. official told me of a lengthy surveillance operation on casual forestry workers: after spending three days observing the movements of four workers, (from a car, at a distance, from dawn to dusk), the suspects eventually turned to confront the investigators. It was then discovered that the identities of the men had been mistaken and that they were not claiming benefit.

Targetting can also be applied to certain categories of claimants, who are regarded as being more prone to fraud than the 'deserving' elderly, sick and handicapped. Historically, lone and deserted mothers have always been considered likely targets for investigation because, as explained in Chapter 4(2), the supplementary benefit payment system assumes an ideal-type nuclear family as the principle 'assessment unit', and as a result lone mothers are regarded as 'between men' rather than as alternative heads of families. Consequently D.H.S.S. investigators, (and routine visiting officers in the past) were instructed to look for visible signs of a male presence (such as clothing, shoes etc.) at the homes of lone mothers who were claiming benefit. If a man was thought to be living there (as 'husband'), then, according to the D.H.S.S. he should assume the role of head of the household and financially support the women and children within it. The effective rationales behind such administrative practice are the assumptions that:



(1) Lone mothers are potential fraudsters because of their lack of marital status and lack of economic dependance upon a male (Cook, 1987).

(2) That the status of lone motherhood is transient until the woman finds another man to support herself and her children.

(3) That a man's emotional and sexual relationship with a female supplementary benefit claimant should be accompanied by an economic relationship.

It is significant that a mother who fails to take proceedings against a 'liable relative', or whose liable relative has disappeared, may be considered as a possible case for a fraud investigation (O.W.S., 1985). Targetting in such instances is a reflection of broader ideological principles concerning the perceived value of the ideal-type nuclear family, the dominance of the housewife-mother role as the ideal one for women, (providing, of course, that the welfare state is not subsidising such a role!), and the evils of dependence on state benefits.

The extent to which this form of targetting is gender-specific is revealed in the following description of the treatment of a 'cohabiting' male claimant, (a post-graduate student living in Oxford), by a visiting D.H.S.S. official:

'The visiting officer found him living in a room which was almost entirely filled by a double bed. The garments and cosmetics scattered about made it clear that the room was shared- by a girl working as a secretary, he explained. But they were not living as husband and wife. They were only together for this term: after that -who knows? The D.H.S.S. did not cut off his benefit, deciding that this was not what most people meant by a husband and wife relationship. Not in Oxford anyway. "And besides", said the



visiting officer, "how do you argue with a man who's studying to be a doctor of philosophy?"' (Donnison, 1982: 108)

Not only was the claimant in this case male, but he was also confident, articulate and middle class. The women who are most likely to find themselves suspected of cohabiting are, by contrast, poor and probably lacking in confidence: female claimants are therefore prone to suffer doubly as a result of their gender and marital status (or lack of it), and their working-class position. (A specific analysis of the treatment of women by S.C.C. investigators will follow in (d) below).

The unemployed form another claimant category likely to be targetted for fraud investigation, especially when the individual has a 'marketable skill' or a history of self-employment (O.W.S., 1983). Once again, this is a consequence of investigators' commonsense knowledge of the opportunity structures available for fiddling by 'working on the side'. In local offices Unemployment Review Officers (U.R.O.'s) had, in the past, a twin role to perform in regulating the unemployed: ensuring that unemployed claimants were helped to actively seek work or training, and the prevention of fraud and abuse by these claimants. This may be regarded as a mixture of 'counselling and policing', although most recently the former function has been largely displaced by the latter: growing numbers of unemployed claimants and shrinking employment and training opportunities have meant that only a tiny number of claimants go 'off the books' as the result of U.R.O.s' counselling role. The vast majority of U.R.O. 'successes' in these terms are claimants whose benefit is stopped because they fail to attend for interviews (N.A.C.R.O, 1986). U.R.O.'s may refer to fraud officers cases where working and claiming is suspected and thereafter F.O.'s assemble and review the facts of the case.

Informal targetting may arise from broader ideological notions about the deserving and undeserving poor. Historically the able-bodied unemployed have been regarded as least deserving of state support (Fraser, 1984). Again, the ideology of individualism espoused by New Right politics has contributed to negative stereotyping of the able-bodied poor who are, in the 1980's more than ever, regarded as unmotivated, uncompetitive failures in a society imbued with entrepreneurial values. But this general ideological position interrelates with other more specific elements to form other additional targets - namely lone mothers, itinerants and certain ethnic minorities. The ideological principles which underpin the negative 'target' status of such claimants are realised in the attitudes of D.H.S.S. staff. Although staff attitudes to an extent mirror those of the wider society (Beltram, 1984), the perceptions of claimants held by benefit staff are crucial elements which construct the material reality of the stigmatisation of certain claimant groups through staff-claimant interactions.

A recent P.S.I. study concluded that 'personal judgements [by benefit staff] could have an important bearing on staff-claimant relationships, and could significantly affect some benefit decisions' (Cooper, 1985:67). Racial prejudice forms part of personal judgement which, according to Cooper, could influence 'decisions which were liable to variable treatment' (ibid:68). Decisions on the investigation or referral of cases of suspected fraud would come under this heading of 'decisions liable to variable treatment', and therefore the possibility of racism influencing the targetting of cases for investigation cannot be ruled out.

Negative attitudes towards lone mothers may similarly influence investigatory practice and the qualitative treatment of female claimants. This is demonstrated in the following responses of two interviewing



officers (Mike and Margaret) to a variety of supplementary benefit claimants: to an unmarried mother of West Indian origin, 'Mike was cold and brusque', yet appeared 'decent and pleasant' to a male invalid in his fifties (Cooper, 1985:52-3). His comments following interviews with a young Pakistani and with a deserted wife were less than objective and polite:

'Bloody odd!...We get quite a few Pakis like that wandering in like lost sheep...'

'Magic isn't it! Old man walks out, we take over looking after the family. Sometimes I think we've got it all wrong. We ought to send her old man the bill.'

(Mike)

Margaret's attitude to a lone mother was similarly negative and clearly influenced her decision making:

'I can't understand why people like her think they've a right to rely on the taxpayer for everything...I think people should have it brought home to them that they have got to stand up for themselves..

Lassies like that I haven't got alot of sympathy for.'

(Margaret)

She also demonstrated a distrust of a young man with a chronic back condition: the office had 'information' that he was living with a woman (also receivng benefit) in the same street. This 'information' may well have been the result of an anonymous call or neighbourhood gossip, but he was nonetheless labelled as

'One we have to watch very closely - always taking liberties...'

There's quite a few around who can't work because of "back trouble", if you know what I mean.'

(Margaret)

The 1980 reforms of the Social Security system did mean a narrowing of the scope for personal judgements by benefit staff and a significant shift away from the excercise of staff discretion. Nevertheless, personal



judgements can still influence the quality and tone of the service to claimants. It can still also affect decisions concerning which types of claimants are 'taking liberties' and which should be viewed as potential fraudsters.

Increasingly punitive attitudes towards certain claimant groups, (particularly the unemployed, itinerants, ethnic minorities and lone mothers), are to be expected within a political climate which extols the values of economic success and the morality of the 'normal' nuclear family (Levitas, 1986; David, 1986; Fitzgerald, 1983). In relation to the political celebration of 'family values', the consequences for those who deviate from these values (particularly if they are poor), are castigation, and blame for most of society's evils. According to Dr Rhodes Boyson, speaking at the 1986 Conservative party conference, single parents had created 'probably the most evil product of our time', manifesting itself in wild youth, football hooliganism and inner city revolt. As already argued (in Chapter 2(iii) above), single parent families are often represented as deviant by 'choice' and not 'misfortune'. As such, moral indignation accompanies the imagery of dependance and 'scrounging'. In this way lone mothers are often regarded as 'undeserving' state 'subsidy' (Boyson quoted in Guardian, 10.10.86).

Both formal departmental policy and informal social attitudes are influenced by ideologies valorising the family and advocating a 'go-getting society', based on individual competition and wealth. Lone mothers and other claimants who fail to aspire to these values are therefore particularly stigmatised. They may also find themselves targetted as potential fraudsters.

(b) Anonymous tip-offs.

Anonymous allegations are acknowledged by the D.H.S.S. to form an important source of many supplementary benefit investigations (Times 14.6.85). As a former S.B.C. Chairman noted, letters complaining about too many handouts, layabouts and scroungers 'rarely came on headed notepaper from leafy suburbs. Most of them are written by ordinary voters and taxpayers' (Donnison, 1982:48). In one Midlands town the number of anonymous calls received by the local D.H.S.S. office was said to have risen from around 80 calls in a month early in 1985 to 300 calls in November of the same year (O.V.S., 1986). Following up such allegations constitutes a significant part of D.H.S.S. routine investigatory work.

Two claimants I interviewed were prosecuted for supplementary benefit fraud following investigations arising from anonymous tip-offs. The first was Caroline who was 20 years old when, in 1978, she worked part-time at a pub whilst claiming benefit. She sought this work more 'for the company' than for the money (her earnings were around £8 per week), and to alleviate the boredom of unemployment. After a few weeks the landlord 'made a pass' at her, which she rejected. Caroline soon stopped work at the pub. Shortly afterwards she was called for interview (which proceeded under caution) at the local office and realised that her employer had informed the D.H.S.S. (anonymously) about her earnings, which amounted to approximately £58. Caroline was subsequently prosecuted and received a custodial sentence (discussed in part 3 below). Clearly tip-offs such as this are both straightforward and fairly quick to investigate, and present easy pickings for the fraud staff involved.

Barry was a 23 year-old father of four when he engaged in casual work on a local farm 'to buy the kids shoes', and new nappies and clothes for



his three month-old baby. The D.H.S.S. received an anonymous letter and wrote to the employer to confirm that Barry had worked there. Investigators subsequently visited Barry at his home where he admitted making a false representation, and was later prosecuted (see part 3 below). He believed that a workmate had probably 'grassed' on him, but seemed philosophical about it: he was aware of many other cases where even family and close friends had informed on claimants who were working and drawing benefit. But Barry accepted this as an inevitable risk involved in fiddling the D.H.S.S..

Caroline's view was less philosophical: she had been informed on by an initially collusive employer who, she felt, betrayed her unfairly because she had rejected his sexual advances. Many anonymous tip-offs are indeed motivated by anger, jealousy or the desire for revenge. Bill, (a self-employed builder) told me of a carpenter he had worked with who had fiddled 'the social' by working while claiming supplementary benefit. In addition to other jobs on the side, the carpenter had fitted a replacement window in the home of his aunt, who felt she had been overcharged by him (because no reduction in the price of the job was made for her being 'family'). Feeling his actions were unjust she subsequently wrote an anonymous letter to the local D.H.S.S. office informing on her nephew.

Following up anonymous allegations may appear a distasteful investigatory technique, yet tip-offs remain a fruitful source of information for investigators. The D.H.S.S. has encountered criticism for encouraging the practice of 'snitching' on friends and neighbours by offering payment for information leading to a successful investigation (Guardian, 23.9.85). The wife of an unemployed shipyard worker from Sunderland explained that her husband had been reported by a neighbour who



had seen him leave the house at the same time each morning and suspected him of working: benefit payments to the family were stopped as the result of the 'super snitcher' (I.T.V. World in Action, 23.9.85. and Guardian 23.9.85). Allegations of cash payments to informers were not denied by D.H.S.S. representatives: 'And if you do get a successful snitch, you get £25 out of the kitty, under the counter.'

The practice of payment for information leading to a successful investigation is also used by the Inland Revenue, although Enquiry Branch informers only average 14 or 15 per year, and local Tax District offices rarely receive anonymous tip-offs relating to tax evasion. Nonetheless, the Revenue do have discretion to pay rewards up to £50 to 'any person who informs them of any offence against any Act relating to inland revenue.' (Cmd. 8822, 1983:199). Only seven rewards were paid in the five years to July 1982 (*ibid*). It can be argued that the far greater numbers of individuals informing on alleged benefit fraudsters are a reflection of factors other than simply the frequency of the offences committed: if this latter were the case then tax fraud 'snitchers' would be legion. The explanation for wide differences in the numbers of anonymous allegations received by the two departments are rather related to contradictory ideological principles underpinning public perceptions of tax and welfare.

In Chapter 3(b) it was argued that there is a commonsense rationale that it is far more reprehensible to take money illegally from the state than illegally to fail to pay money due in taxes to the state: this view is rooted in the principles of liberalism which serve effectively to contradict apparent discourses centring on the collective provision of welfare and the 'rights' of benefit claimants. Given these effective contradictions, it is hardly surprising that very few individuals (are encouraged to) inform

on tax fraudsters, whereas those who inform on benefit fraudsters are promoted (in official discourse) as public spirited guardians of the public purse. Ingenuity and thrift legitimate and promote tax fiddles which are dismissed, with a wink and a nudge, because it is seen as 'natural' to want to beat the taxman and maximise one's own financial gains.

(c) Fraud drives and 'Knocker Squads'.

The techniques collectively analysed here under the heading of 'fraud drives' encompass a variety of investigatory methods, (some already discussed), and utilise all levels of fraud staff, local and regional. The common themes which underlie fraud drives are

1) The specific targetting of a claimant group, location or occupation for intensive investigation. (Within this target area/group there may be an element of randomised investigation of some claimants *on suspicion* of fraud but without evidence that a fraud has taken place).

2) A proactive approach in which investigators are seen to be taking the initiative in countering fraud (as opposed to the reactive approach of much routine fraud work evident in, for instance, following up information and tip-offs received at the local office).

3) High profile publicity of the results of the 'drive'. (Fraud drives are geared as much to the notion of 'deterrence' as to immediate cost-effectiveness).

In 1981 a D.H.S.S. trades union representative cast doubt upon the motives and methods of fraud drives which were mounted against claimants adjudged to be in 'at risk groups':

'This of course is totally objectionable in every way, as seeking to categorise claimants in this fashion can lead not to more success



in detecting fraud but even more alienation between claimants and the staff who serve them....the slavish adherence to the political intent of fraud drives will increase the present gulf between claimant and staff and lead to even more friction in public caller areas...Do not co-operate with these fraud drives as they are politically dishonest, save hardly any money in real terms and do nothing to improve the relationship between claimant and staff.'

(O.W.S., 1981)

Significantly, this official noted that there was very little difference between the 'modus operandi' of fraud drives and the methods used by S.C.C.U.'s (discussed below). For this reason the former were sometimes referred to as 'knocker squads' because of the possibility of random calls on claimants whose only 'crime' may have been their past work record (a marketable skill or history of self-employment), or their marital status (lone or deserted mothers). The specific methods of S.C.C. will be discussed below, but it is important to recognise the importance of the departmental emphasis on the 'fraud drive' approach, particularly in relation to broader political objectives.

During the 1979 election campaign allegations had been made about widespread social security fraud and in February 1980 'Reg Prentice did his best to gain some political mileage out of the issue by launching a big campaign' (Donnison, 1982:209). This campaign did not focus on the collusive employers who enable the commission of the majority of benefit frauds - working while drawing benefit. Rather, the characteristics of these fraud drives were determined by political factors:

'..the politically necessary job of showing that the government were 'doing something' about fraud, without upsetting the ordinary voters



who, as customers, workers or employers, often participated in fraudulent transactions.' (ibid:210)

In 1980 Patrick Jenkin had warned the Conservative party conference, 'Watch out! It's time the fiddling has to stop.' (Presumably he was directing his remarks against social security claimants and not referring to the business practice of the conference audience). Combatting benefit fraud and abuse therefore became a means of rallying the faithful - whether the 'honest' taxpayer or the party faithful- and effectively a means of galvanising comfortable public opinion against welfare recipients through the 'scrounger' stereotype.

The amount of publicity generated by departmental fraud drives confirms the ideological function that they are designed to perform: for instance, recent drives against Heathrow Airport staff, (cab drivers, hotel and catering staff in particular) were publicised by the Department of Employment because Ministers had decided 'the campaign should be given a much higher profile' (Guardian 16.9.87.) On the day of the announcement of the drive on these 'dole cheats', every national Television News broadcast carried the Heathrow story, which in the Midlands was followed up with publicity of a similar drive against workers at the National Exhibition Centre, Birmingham (I.T.V. Central News, 16.9.87). This belied the B.B.C. correspondents' assertion on the national bulletins that these fraud drives were being concentrated in the Thames Valley and areas of lowest unemployment in the South of England .

The Heathrow and N.E.C. fraud drives were mounted by the Department of Employments' Regional Fraud teams against individuals who were claiming *unemployment benefit* and working, although some of those investigated would be in receipt of supplementary benefit in addition. Regional Fraud Teams,

formerly known as 'Rabbits' (Regional Benefit Investigation teams), utilise techniques broadly similar to those of S.C.C.'s. As a result they have attracted similar complaints: according to a dossier compiled by the C.P.S.A. their techniques of investigation have caused 'real distress to members of the staff and the public' in local offices and in claimants' homes (Guardian, 10.11.86.). The complaints dossier includes allegations of investigators making uncorroborated accusations of fraud against an 'educationally sub-normal' claimant, the covert use of tape recorders when interviewing claimants, and accusing a young man, recovering from a hernia operation, of working while claiming (*ibid*).

In a fraud drive against motor-cycle dispatch riders in central London, techniques used by investigators involved comparing names on employer's wage records with the unemployment register, noting the registrations of riders and obtaining the names and addresses of the owners (through the D.V.L.C. at Swansea), and cross-checking these details with the unemployment register (Guardian, 16.9.87). By contrast, the drive against workers involved in the construction and running of the N.E.C. involved 'seven months of surveillance' (I.T.V. Central News, 16.9.87). But the themes of targetting, proactive investigation and high profile publicity are common characteristics in both instances.

The methods employed in fraud drives and manner in which they are represented in the public rhetoric derive from essentially political decisions to prioritise the issue of 'scrounging' at particular points in time. (It is significant that the two fraud drives mentioned here were not publicised at the time of the June 1987 election, when unemployment and 'caring government' were important issues). In order to understand the techniques and rationales of the departments engaged in these activities it



is necessary to locate departmental fraud policy in a wider economic and political framework (see Chapters 3 and 6). The relationship between departmental practice and political objectives is nowhere more evident than in the case of operation of S.C.C.U.'s from 1981 to 1986.

(d) 'Super Snoopers' - Special Claims Control Units.

Following their introduction in 1980, S.C.C.U.'s immediately attracted strong criticism. This was principally directed against the 'bullying' tactics which they allegedly used in order to get claimants 'off the books' (Moore, 1981; Smith, 1985; N.A.C.R.O., 1986). But their investigatory techniques were merely a logical consequence of the departmental policies of a government committed to combatting social security fraud while at the same time seeking to significantly reduce public expenditure: the (confidential) fraud investigators' guide in use at that time emphasised a shift in departmental policy geared to meeting these objectives:

'In the past, as many cases as possible were pursued to prosecution but, in future, while the deterrent effect of successful prosecutions will continue to be borne in mind, the cessation of a claim might be regarded in appropriate cases as the most cost-effective way of dealing with the matter.' (Moore, 1981:138)

As will be seen below, techniques such as the 'non-prosecution interview' were used by investigators to achieve benefit savings through the 'cessation of a claim'.

Social Security minister Reg Prentice had asserted in February 1980 that 'Efforts to control fraud and abuse have been inadequate for several years' (Hansard vol.798 No.118 col.710) and, as mentioned above, a commitment to stop the 'fiddling' was made at the Conservative conference that year.



Having announced that up to £50 million could be saved as a result of new anti-fraud efforts, it is hardly surprising that the investigatory techniques of the new S.C.C. squads were geared to meeting those ministerial targets of expected 'benefit savings'. According to D.H.S.S. staff 'unofficial league tables were rife' as S.C.C. officers worked to meet their personal 'targets' of benefit savings (O.W.S.1981) . The methods they adopted to that end will now be examined.

S.C.C. techniques include many of those employed by S.I.'s and already described above - targetting, surveillance and utilisation of information from other sources. The fraud investigators'guide (F.I.G.) also encouraged the building of links with local police in the pursuit of social security fraud (The Times, 2.5.81). However, what distinguished the character and techniques of S.C.C.U.'s from other anti-fraud staff was their relative independence from local office control and their 'special squad ethos' (O.W.S., 1981). S.C.C.U.'s based at regional offices undertook 'swoops' on local offices where they selected certain cases from the 'live load' for investigation (according to criteria to be outlined below). But the very organization of these units set them apart from other departmental staff:

'Considerable effort was put into a team approach by S.C.C., who tried to create the esprit de corps of an elite.' (Smith,1985:118).

This factor, coupled with grave misgivings about S.C.C. 'strong arm' methods, led civil service trades unions to advise their members to refuse to co-operate with S.C.C.U.'s within local offices:

'The charge [the unions]...brought specifically against S.C.C. teams was that the techniques they employed involved essentially random investigation of claimants, using questionable interrogation techniques and unacceptable pressure to produce dubious savings,

all in an atmosphere overcharged with the desire to meet targeted savings and root out fraud.' (ibid)

Certainly there is much evidence to support these C.P.S.A. and S.C.P.S. allegations - the N.A.C.R.O working party studying the enforcement of Social Security Law received similar complaints concerning S.C.C. from organizations such as the National Association of Citizens Advice Bureaux and the Association of Directors of Social Services (N.A.C.R.O., 1986:46).

The selection of cases for investigation by S.C.C. was based upon official guidelines which implicitly allowed for the random investigation of: (1) any unemployed claimant who was not ill and (2) lone mothers with dependant children (Smith, 1985; O.W.S., 1982). D.H.S.S. investigation staff translated these broad categories into typical operative reasons for S.C.C. case selection: these criteria included

'No recent requests for exceptional needs payments (E.N.P.'s), claimants suspected of being "on the game", claimants living in luxury...and "smoothies".' (O.W.S., 1982)

There is, therefore, considerable room for personal and subjective judgements on the part of S.C.C. staff in requesting certain categories of claimant for investigation:

'It seems that single women are particularly vulnerable to pressure, despite [circulars emphasising] the very sensitive nature of some M.C. cases...This situation is compounded by the predominance of male S.C.C. investigators...this also applies to general S.I. work.'

(O.W.S., 1982)

Despite a re-write of instructions to S.C.C. investigators in June 1983 which stressed the need to prevent distress (or duress) to claimants, the same vulnerable groups were targetted in a subsequent S.C.C. drive planned



for Scunthorpe in 1984. Here local officers were asked to take out the files of 7,000 of the 12,000 claimants in the town in preparation for the S.C.C. drive, and investigators were asked to 'look closely at single parents and the able-bodied unemployed' (Guardian, 24.1.84). Confidential evidence from D.H.S.S. officials indicated that S.C.C. investigation often proceeded on the basis of 'a hunch' or 'smelling a rat'. As already discussed, broader prejudices and stereotypes (particularly concerning lone mothers, ethnic minorities and the able-bodied unemployed) may influence the interactions between staff and claimant. Such negative attitudes were, moreover, actually fostered in the targetting of those groups for S.C.C. investigations. For instance, N.A.P.O. alleged that they had evidence of S.C.C. being directed to investigate claimants with surname Singh 'as this was a fertile area for investigation' (N.C.A.S.S.C., 1985:10). Interestingly, other critics compared the loose criteria for the selection of claimants for S.C.C. investigation with the 'SUS' laws (S.C.P.S./C.P.S.A., 1984). A conference on the Policing of Welfare Benefits suggested that 'S.C.C. is part of a rigid authoritarian, anti-woman, anti-minority elite within the welfare system' (C.P.S.A., 1984).

In relation to the treatment of female claimants by S.C.C., the evidence of other D.H.S.S. officials was damning:

'At least half the time and energy of S.C.C. is devoted to accepting the order books voluntarily surrendered by women with children who are persuaded that they are in fact living with men as members of a single household.' (O.W.S., 1981)

The methods used by S.C.C. teams to persuade claimants to relinquish their claim to benefit allegedly included intimidation and inducement:

'Women interviewed in locked rooms by, sometimes, two S.C.C. team members. Late afternoon is a favourite time, with mothers



pre-occupied about their children at school, home or in waiting rooms...Evening home visits by two S.C.C. team members...Threats to women that their children will be taken into care by Social Services because they are unfit mothers. But, if they hand over their order books...Presentation of non-existent evidence (telephone directories in manilla folders), false stories of having watched and followed claimants for days and having obtained evidence of working or cohabitation. Threats to prosecute if order books not handed over or if claimants do not sign off...Inducements- Extra needs payments for working clothes used to be a favourite...now we find that single payments for children's clothing are used.' (O.W.S., 1981)

Revised instructions (circular F.I.G./21 1983) to investigators marked a response by the then Social Security minister Rhodes Boyson to criticisms of S.C.C. techniques: the instructions warned against 'unacceptable techniques' such as harassment, falsely alleging that evidence of fraud is in hand, falsely alleging that a third party has cast doubt on the claimant's entitlement to benefit or 'trying to gain the claimant's confidence by claiming to be a single parent' (Guardian 11.7.83; D.H.S.S. Circular F.I.G./21, 1983). But clearly the aims of S.C.C.U.'s, determined as they were by political and ideological principles, remained the same -

(1) To take the initiative against fraud and abuse (F.I.G.1983)

(2) To avoid prosecution, as there was 'no additional cash return for a prosecution (Moore,1981)

(3) To favour the achievement of 'benefit savings' through the 'non-prosecution interview', and to be cost-effective in terms of manpower used and 'savings' achieved (ibid).

The watchwords 'cost-effectiveness' and 'cash return' are in keeping with a political philosophy concerned with results in cash terms. The evidence presented here of the effective results when such principles are put into practice indicates that claimants' rights may have suffered at the expense of (dubious) savings to the Treasury. But the ideological role served by such rigorous policing of certain sectors of the poor was the reinforcement of the 'scrounger' mythology and negative stereotyping of the 'undeserving poor' (see Chapters 2(a) and 3(a) above).

However, the official discourses which were replicated in much of the mass media were not universally accepted. Pressure groups (such as C.P.A.G., N.A.C.A.B. and N.C.C.L.) and trades unions representing civil servants protested both at S.C.C. techniques and the political principles which underpinned them. In May 1986 Norman Fowler announced that S.C.C.U.'s were to be abolished. The announcement itself centred on the deployment of an additional 500 staff to anti-fraud work in the D.H.S.S.: 180 of the extra staff were to be placed in

'selected offices, specifically to reinforce their efforts to combat benefit fraud by claimants resident in hotels and other bed and breakfast accommodation...The other 320 extra staff will be added to the regionally based teams: these teams will be regrouped into 31 benefit fraud teams...They will help the local office in fully investigating allegations of fraud and bringing prosecutions where justified.' (Hansard 15.5.86, Col322)

S.C.C. has therefore been abolished in theory, but it remains to be seen whether the abuses of claimants' rights by S.C.C.U.'s have been halted, or whether the 'special squad ethos' and tactics remain effective in practice. Certainly the political priority of 'cost-effectiveness' is still dominant,



and the abolition of S.C.C. may well be merely a reflection of this policy goal: it was in the area of demonstrable cost-effectiveness that S.C.C. conspicuously failed (N.A.C.R.O., 1986; Smith, 1985).

## SUMMARY

Supplementary Benefit fraud investigations take place within a social context shaped by contradictory views of the modern welfare state and its benefit recipients (see Chapters 2(a) and 3(b)). On the one hand, the welfare state's main function can be seen to be the payment of benefits as of right and the relief of need, with due attention to the dignity of the individual claimant (N.A.C.R.O., 1986). On the other hand, the welfare state's main function can be seen in terms of protecting the public purse, discouraging 'avoidable' dependancy and paying benefits to those who demonstrate need. Patrick Jenkin argued, according to this view, that

'The *honest* and the *innocent* have nothing to fear from the enquiries of our officials...Helping *genuine* claimants to get their benefits remains the main function of the Social Security organization.'

(Hansard, 6.5.81., vol4 No97) (My emphasis added)

The pursuit of supplementary benefit fraud may serve to reinforce notions of the dishonest claimant, and ultimately reinforce nineteenth century distinctions between the deserving and undeserving poor.

Since the mid-1970's economic recession has promoted the dominance of (monetarist) political policies stressing a curbing of public expenditure. It is in this context that the welfare state has become a crucial target for cost-cutting initiatives. Between 1979 and 1984 staffing in the D,H,S,S, was cut by 8,000 (McKnight, 1985), yet at the same time extra staff and resources were being directed against fraud and abuse. In this Chapter such



contradictions have been attributed to three main policy aims of the D.H.S.S.:

(1) The aim of cutting D.H.S.S. costs overall by using fraud staff to

a) obtain 'savings' of benefit through their investigatory efforts

b) save benefits being paid out by deterring individuals from claiming benefits to which they may be entitled, through publicising fraud drives.

(Beltram, 1984; Smith, 1985)

(2) The aim of promoting the ideal of a 'go-getting' entrepreneurial society:

for there to be winners there must be losers, and those losers are labelled and stigmatised as such (see Chapter 6). Equally, in such a society, self-reliance should be stressed, hence an ambivalence to mounting official take-up campaigns (ref. Institute of Directors, quoted above)

(3) The aim of undermining faith in the welfare state by exposing its wastefulness in paying benefits to the undeserving and the 'scroungers'. These policy goals, taken together, signal the end of the 'welfare state consensus' and instead pose alternative social market principles in the provision of relief the poor (Mishra, 1986; Loney, 1986).

Underlying these policy aims are the vocabularies of the free market, effort and individualism. New Right political philosophy has therefore intensified earlier critiques of welfare: for example, the notions of the undeserving poor have been utilized to incorporate additional claimant groups who are re-constituted as 'avoidably' dependant. Single parent families are thus represented as 'undeserving' if they have 'chosen' not to be members of a patriarchal nuclear family. The New Right's version of morality encompasses other culpable poor groups - young people who 'do not want to work' or unemployed people who place an excessive burden on the state by having 'too many' children. As argued in Chapter 2, such moralising

attitudes to the poor have a long history. But, the crucial importance of such ideas is that they have been successfully incorporated into a political philosophy of the 1980's. In this way the New Right has not only tapped into a vast historical reservoir of ideas about the 'undeserving poor', but has also hi-jacked the vocabularies of 'freedom' and 'individualism': the former has been used to justify curbs on the freedom of the poor in the name of freedom from excessive taxation for the better-off, and the latter to justify the dismantling of collectivist social provision in the name of greater individual independence. For the time being, at least, social policy is dominated by the ideologies of the free market (rather than social justice) and individualism (rather than collectivism). But, as will be argued in Chapter 6, there are possibilities for change through challenging what is now regarded as the 'commonsense' of New Right ideology. One means of effecting such a challenge is through exposing the inconsistencies and contradictions of New Right discourse - these contradictions are realised in the differential social, political and judicial responses to tax and supplementary benefit fraud.

### (3) DIFFERENTIAL RESPONSE - PENALTIES AND PROSECUTION.

The analysis of the investigation policy rationales of the Inland Revenue and D.H.S.S. in Chapter 4 argued that the responses of these enforcing departments to benefit claimants and taxpayers suspected of defrauding the public purse vary in key respects - both in policy and in practice. For instance, policy towards investigating benefit fraud is underpinned by notions of 'scroungers' and the 'undeserving poor' whereas policy towards the investigation of tax fraud is underpinned by a coercive view of personal taxation, and by advocacy of the values of entrepreneurialism and the accumulation of personal wealth. The political and ideological contradictions which shape investigation policy are similarly evident in departmental practice: for example the differing material conditions in which interactions between departmental staff and claimant/taxpayer take place reflect wider ideological differences in the perceptions of claimant/taxpayer (and their respective relationships with the state). Hence there is no evidence of taxpayers waiting in queues, (~~hundreds~~ long) at 9 a.m., or waiting for an interview, in appallingly squalid and overcrowded public waiting rooms, for several hours (Mandla, 1987; Ward, 1985).

The attitudes of departmental staff invariably reflect the ideological construction of their clients as 'winners or losers', 'givers' to the state or 'scroungers' taking from society. The tone of interactions between staff/claimant and staff/taxpayer and the quality of service and respect accorded to the taxpayer and the benefit claimant are clearly at variance. It will now be demonstrated that similar differences are also evident when analysing the departmental regulations governing penalties available for tax and benefit fraud, particularly when comparing the likelihood of



prosecution for both types of offence. It will also be argued that differential responses are evident when such regulations are applied in practice: this is particularly apparent in the following analysis of prosecution guidelines and court proceedings involving tax and benefit fraudsters. What follows will therefore analyse

(a) the POLICY and

(b) the PRACTICE of the Inland Revenue and the D.H.S.S. in the punishment of tax and benefit fraudsters.

**(a) PENALTY AND PROSECUTION POLICY - Tax**

'The first responsibility of the Revenue is to get money in and not to lock people up in prison and prosecute them.' (O.V.S., 1985)

According to this official, the Inland Revenue's primary task is the collection of the taxes which parliament says are due. This, the Revenue argues, may be more effectively accomplished through seeking the compliance of the taxpayer and, in the case of default or fraud, through seeking financial penalties in all but the most serious cases. The senior official quoted above reflects this view which is apparently pragmatic in approach but effectively produces a 'non-prosecution' policy where most tax evasion is concerned. But there are several contradictions which render this policy open to question, on grounds of both equity and efficiency. Some of these doubts were raised in evidence to the Keith Committee:

'There are millions of tax evaders in the U.K. and over 100,000 are detected each year, yet only a handful are prosecuted (and fewer still convicted). Could this handful legitimately complain that they are suffering from the arbitrary exercise of an administrative whim?' (Deane, in Cmd. 8822, 1983:457)

The criteria the Revenue use to decide whether to prosecute do not vindicate the notion of an administrative 'whim', but do show a high degree of selectivity in the (few) cases proceeding to prosecution. The criteria for selection of cases for prosecution include the following:

- 'Heinous cases'

- Cases where individuals have already enjoyed a negotiated settlement.

- Cases where taxpayers have made incomplete disclosures (as, for instance, in the recent case of former jockey Lester Piggot)

- 'Status' prosecutions, for instance where accountants have been involved in fraud and public confidence in the tax system needs to be ensured. (ibid:22.1.9)

The common elements operating within these prosecution criteria are

- 1) Prosecution where financial settlement and/or negotiation have not ensured the full compliance of the taxpayer.
- 2) Cases involving a high degree of organisation (heinous cases).
- 3) Cases where the Revenue's (and taxpayers') trust in professional advisers has been breached.

The Revenue's policy is to 'prosecute in some examples of all classes of fraud... because it is the possibility of prosecution which prevents the spread of tax fraud to unacceptable limits.' (ibid:378) This policy immediately poses three questions:

First, what is considered to be the boundary beyond which tax fraud is said to reach an 'unacceptable limit'?

Second, do such small numbers of Revenue prosecutions justify the claim implicit here, that they provide an effective 'deterrent' to the spread of unacceptable levels of fraud?

Third, is this selective (and subjective) approach to prosecutions equitable in practice if, for instance, a large fraud in respect of trading profits is likely to result in a cash settlement whereas if a payable order made out by the Revenue is stolen, the thief is likely to be prosecuted?

The Centre for Policy Studies appeared to have similar questions in mind when they commented that the 'ease of presentation of the prosecution case has been a more important factor in the decision to prosecute than it should be', and furthermore that 'a bigger proportion of the more socially harmful kinds of offences tends to be the subject of negotiated settlement' (ibid:22.1.3.). A case of theft of a payable order is relatively easy to prove and is recognisable as 'real crime' - theft. However, to prove wilful default on the part of a businessman who understates trading profits is extremely difficult, and such frauds do not equate with what is publicly perceived as 'crime': after all, who is the victim? What is the boundary between tax fraud and shrewd business practice in commonsense terms? (Pearce, 1978; Chambliss, 1978). The prosecution policy of the Revenue is therefore not determined solely by pragmatism and the desire to collect tax effectively, though this does play a significant part in the decision not to prosecute cases which are difficult to prove (see discussion of practice in 2 below). Prosecution policy is also underpinned by notions of what constitutes socially acceptable financial practice (within the logic of a capitalist economy), and by ideological stereotypes of 'crimes' and criminals.

It is significant that of the 332 cases of criminal proceedings brought by the Revenue in 1984/5, the vast majority would fall into the descriptive category referred to above as 'real crime' and do not, for the



most part, relate to business fraud at all: 184 of the total of 332 prosecutions mounted related to sub-contractor frauds and 86 to the theft of payable orders and girocheques. As the analysis of investigation techniques above indicated, such frauds are usually uncovered by the Revenue's 'police' (the B.I.O.) and investigated by them or the police proper (see Appendix 2 for details of Revenue prosecutions since 1975/6 and breakdown of convictions obtained by the police).

Where the Revenue seeks financial settlement rather than prosecution, negotiations between taxpayer (and his/her advisers) aim to arrive at a mutually agreed figure of tax which has been underpaid. Where there is evidence of 'fraud, wilful default or neglect' on the part of the taxpayer, additional financial penalties may be imposed on him/her, on top of the repayment of the agreed figure of tax owed, together with interest that would have accrued (to the Revenue) on that amount (Inland Revenue Leaflet 73, 1987). Normally six previous years may be investigated and so interest is calculated from the date that the tax should have been paid up to the date that it actually is paid. Penalties are calculated as a percentage of the tax unpaid: in strict law penalties could be over 100% of the amount of tax owed, or in cases of fraud 200%, but in practice the Revenue does not seek penalties exceeding 100% (ibid). That figure is further reduced significantly according to the degree of the taxpayer's co-operation, the relative gravity of the offence and the fullness of any voluntary disclosure made.

Once again the policy is geared to compliance and the apparent goal is the collection of tax, but the qualitative treatment of taxpayers accused of fraud, wilful default or neglect in relation to their tax affairs goes beyond the immediate requirements of obtaining tax: their treatment by

officials is far more respectful and mindful of individual rights than is evident in the case of benefit fraudsters. For instance, in seeking agreement on tax owed and in calculating any penalties due, the Revenue encourages discussion with taxpayers and their professional representatives, and all procedures for dealing with settlements are outlined in official leaflets. This contrasts starkly with the lack of respect, official knowledge and professional representation which characterises the treatment of many benefit claimants accused of omissions from their statements of circumstances (see (2) above and D.H.S.S. practice outlined below). Yet despite the relative leniency of financial penalties when compared with criminal prosecution, they are frequently represented (by both offenders and in the public rhetoric) as draconian and unjustly punitive. For instance, a recent article (in a series) on taxation opened with the following accusations in relation to the Revenue's system of financial penalties:

'An increasing number of tax inspectors are becoming "trigger happy" about trying to invoke penalties against people whom they suspect of being defaulters; against people who make innocent errors; and also against people who are merely late in dealing with their tax returns.' (Horner, Guardian, 29.8.87)

But Revenue leaflets clearly state the precise meaning of the guidelines in operation:

'..you may have done nothing more than make an innocent mistake. In that case, no penalty would arise. You may, however, have paid too little tax, or paid it late, as a result of fraud, wilful default or neglect. "Wilful default or neglect" can include sending in your tax return late.' (Inland Revenue leaflet 73, 1987)



The mythology surrounding the allegedly 'draconian' powers of the taxman derives essentially from the view of taxation as coercive, and the submission of income tax returns as an unwelcome intrusion into the taxpayer's private and business affairs - the intolerable inquisition school of thought. This view was articulated by one taxpayer I spoke to who had been charged financial penalties, following Revenue investigations into property holdings. He maintained that the Revenue routinely charged penalties at the rate of 200%. This assertion is belied by evidence (see above) that the effective maximum penalty of 100% is further reduced according to the degree of mitigating circumstances already described - co-operation, gravity and disclosure. But nonetheless, such accounts of events do demonstrate the commonsense view that the Revenue's penalties are excessively punitive. In practice, the characteristics of coercion and intrusion are more applicable to supplementary benefit investigations (as described above), yet the regulation of the poor (who are financially supported by the state) is not regarded with the disapproval expressed when the state attempts to regulate the 'rich' (see Chapters 3 and 6 ).

#### PENALTY AND PROSECUTION POLICY - Supplementary Benefit.

During the period of intense 'scroungerphobia' in the late 1970's the D.H.S.S. mounted increasing numbers of prosecutions for supplementary benefit fraud: such prosecutions reached a peak in 1980/81 with criminal proceedings taken in 20,105 cases (D.H.S.S. [p.c.], 1985). This policy of 'prosecution where appropriate' was held to be a deterrent against fraud and abuse. In tune with emergent New Right ideology, calls for greater departmental cost-effectiveness led to a reappraisal of this policy following the Rayner team's enquiry in 1980. The official departmental



policy from 1980 favoured 'non-prosecution' interviews leading to benefit 'savings', a policy which was spearheaded by S.C.C.U.'s and fraud drives. Critics of this policy pointed out that encouraging claimants to withdraw their claim to benefit may lead to situations where investigators may conduct a non-prosecution interview and achieve the cessation of a claim, where a formal prosecution would have failed - for instance through lack of evidence, delay in proceedings or improper methods of investigation:

'A decline in the emphasis on prosecution could mean a decline in the adequacy of the evidence on which benefit is withdrawn..

In some circumstances benefit can be withdrawn on the basis of evidence which would not stand up in court.' (Moore,1981)

Although such commentators would hardly advocate the use of criminal proceedings against benefit fraudsters, they were fearful that 'non-prosecution' was potentially a greater evil: it entailed the possibility of coercion of claimants in the proactive approach to anti-fraud work, together with a potential slackening of standards by investigators eager to achieve savings targets, and without the constraints of gaining the evidence necessary in court proceedings (Moore, 1981; C.P.S.A., 1982).

Numbers of prosecutions for supplementary benefit fraud did show a substantial decrease as a result of this shift in policy, dropping from 20,105 cases in 1980/81 to 9,360 cases in 1984/5 (see Appendix 3). Nonetheless, these figures still demonstrate the relative prevalence of the use of criminal proceedings against benefit fraudsters in comparison with the infrequency of criminal proceedings against those who defraud the Inland Revenue (see Appendix 2). It is noteworthy that justifications in terms of the deterrent value of prosecution are not applied equally in the case of tax and benefit fraud: the prosecution of a small selection of the

most serious cases of tax fraud is considered an adequate deterrent to the unacceptable spread of tax evasion, yet around thirty times that number of prosecutions seem to be required in order to deter the supplementary benefit fraudster. Clearly the differential prosecution of tax and benefit fraud is enabled by contradictory principles underlying taxation and the provision of state welfare (Chapter 3): the apparent rights of equal citizenship afforded to welfare recipients are dissipated by the requirement to prove the need (and the personal worthiness) for state support, and by the political demands for departmental cost-effectiveness. Paradoxically, it would be far more cost-effective to devote resources to the investigation of tax fraud which is, according to best estimates, far more costly and more prevalent than benefit fraud (Chapters 1(2) and 5(1) above).

But differential responses to tax and benefit fraud also reflect the contradictory values of social justice and of the free market: the relative dominance of the latter enables leniency towards the economically successful, but a punitive approach to the economic 'failures' who are dependant upon the state. The policy of 'sparing the taxpayer's feelings' therefore represents not only a pragmatic approach to the collection of tax, but also an acknowledgement that tax evaders are not 'criminals' in merely failing to give the appropriate slice of their income to the state. By contrast the benefit fraudster is 'criminal' in the sense that s/he is stealing the taxpayer's money. The prosecution policies of the two enforcing departments are therefore explicable in terms of these ideological contradictions and cannot be explained in terms of cost-effectiveness and pragmatism alone.



The D.H.S.S. approach to financial reparation also reflects these ideological distinctions between recipients of state benefits and those who are perceived as financing those benefits - the taxpayers. In the case of tax fraud (or 'default'), financial penalties are the preferred form of punishment on the grounds of sparing the taxpayer's feelings, pragmatism and the need for compliance. (In practice pragmatism means collecting taxes rather than punishing evaders and, as will be argued below, appeals to pragmatism offer a powerful justification for the relatively lenient departmental response to tax fraud). In the case of supplementary benefit claimants, all overpayments of benefit which do not arise from departmental error are recoverable, either through repayment in a lump sum or by instalments (if the claimant is no longer in receipt of benefit), or by deduction from benefit payments if they are still in receipt (Lynes, 1985). Although additional financial penalties cannot be levied by the D.H.S.S. (as they can by the Revenue), claimants may face criminal proceedings in which the imposition of fines and court costs have precisely that effect.

It is often argued that the rationale behind the use of financial penalties for tax fraud is the offender's ability to pay coupled with the desirability of seeking the taxpayer's compliance (see (1) above). But regardless of their poverty (and thus, theoretically, their inability to pay), benefit claimants are indeed required to pay, both in terms of repayments to the D.H.S.S. and often in terms of financial penalties levied by the courts (see discussion of recovery practice and the 'ability to pay' below). The key difference in departmental policies regarding financial penalty lies in the context and manner of their imposition: for the tax fraudster financial penalties are civil matters dealt with by mutual



agreement with officials of the Revenue. In the case of supplementary benefit fraud, financial penalties (where applicable) are imposed by courts and so involve the criminalization of the fraudster. As argued above, penalty policy also reflects ideological distinctions between the allegedly non-criminal nature of 'fiddling taxes' and the essentially criminal nature of stealing from the state (and taxpayers) through benefit fraud. The perceived relationship between the offender and the state is therefore crucial in explaining the differences in punishments and penalties imposed on tax and benefit fraudsters.

#### (b) PRACTICE

Departmental policy and practice in relation to the punishment of tax and benefit fraudsters is in part determined by legal considerations: the differences of prosecution and penalty described above reflect disparities in the legal definitions of offences relating to tax and to supplementary benefit. The form of law itself can be seen in turn as indicative of different societal responses to those who defraud the public purse by failing to pay taxes or by falsely claiming state benefits (Uglow, 1984). Disparities also emerge when examining the practice of departmental and judicial officials who administer the law and the punishments it prescribes. Differential practice in these respects will be analysed along the following lines:

- 1) Legal issues - Intent and proof.
- 2) Advice and representation.
- 3) Sentencing offenders.
- 4) The 'Ability to Pay' - the appropriateness of punishments

1) Legal Issues - Intent and proof.

'Briefly, the offences available to the Inland Revenue are ones which require proof of *mens rea* in the form of dishonesty or intent to defraud...The D.H.S.S. prosecutor has only to show knowledge of the falsity of the statement and does not have to show dishonesty in any wider sense. Are policies stressing the criminal aspect encouraged by the relatively easier task of prosecuting strict liability offences?' (Ugnow,1984:130)

Evidence provided to the Keith Committee and to the N.A.C.R.O. working party on the enforcement of Social Security Law would indicate that, as Ugnow suggests, policies stressing the criminal nature of social security offences and the 'non-criminal' nature of tax offences are generated and sustained by the availability of the substantive charges used against the different types of offender. For instance, according to the Keith Committee Report,

'The Department commented "Prosecution is a very drastic step which of its nature ought to be reserved, as a general proposition, to the really serious cases". They frankly acknowledged, however, that significant practical considerations are also present which tended against a large number of prosecutions, namely "the burden of preparing cases to the standard required in court and of seeing them through the courts".'

(Cmd.8822, 1983:379)

By contrast, the task facing solicitors prosecuting on behalf of the D.H.S.S. under S. 21 of the Supplementary Benefits Act 1976 is far less daunting - they must prove only the following: that the claimant made a 'representation' (statement), that it was false when made, that the claimant knew the purport of the representation and that it was false.



There is no requirement to prove deliberate dishonesty or intention to defraud the department (O.W.S., 1984; N.A.C.R.O., 1986) It can be argued that the law relating to social security cases therefore fails to observe the normal principles of criminal liability in relation to deception offences: first, it is not necessary to prove that the 'obtaining' of benefit was caused by the deception. Hence 'the principle that causation is integral to criminal responsibility is ignored' (Uglow,1984). Second, it is not necessary to prove the intention to defraud:

'It is not an ingredient of the offence that a false representation was made with the intention of obtaining an increase in benefit.'

(O.W.S. 1984)

If prosecutions are brought under the 1968 Theft Act S.15 (obtaining property by deception), the prosecution must prove dishonesty and the wrongful obtaining of benefit, but these acts are only used in 'serious' cases (O.W.S., 1984; N.A.C.R.O., 1986). The vast majority of prosecutions for supplementary benefit fraud are therefore brought under departmental regulations which require no proof of intent to defraud. The availability of easily prosecutable offences makes a vigorous anti-fraud policy, involving the relatively frequent use of prosecution on the part of the D.H.S.S., more likely and more attractive (Uglow,1984).

The Inland Revenue adopts the principle that 'tax law is not something apart' and so it is usual to charge taxpayers with offences under the Theft Act 1968. Effectively, then, it is necessary to prove intention to defraud in Revenue prosecutions, which perhaps contributes to their effectively non-prosecution oriented approach (Cmnd.8822:378). As one tax official commented, 'Revenue prosecutions tend to be for things that are readily provable. How do you prove deliberate intent to defraud by under-



estimating profits?' (O.V.S., 1985). In addition, many tax frauds involve a good deal of duplicity: they are by no means easily investigated, proved or understood. Evidence provided to the Keith Committee acknowledged the difficulties of mounting a successful Revenue prosecution, particularly in view of the technical complexities which both judge and jurors must understand:

'..The difficulties of presentation of fraud cases to juries mean that too many fraudsters are being acquitted, or never prosecuted in the first place.' (Cmnd.8822, 1983:165-6)

The Roskill Committee, set up in 1983, went so far as to recommend the use of a 'Fraud Trials Tribunal' as a potential solution, advocating that they be used instead of juries in the most lengthy and complex cases of fraud (Zander,1986). By contrast, in cases of supplementary benefit fraud the offence, of knowingly making a false statement for the purposes of obtaining benefit, is both easily provable and easily understood by Magistrates and juries. This offence in itself is therefore perceived as less ambiguous than tax fraud and consequently more likely to be considered as straightforward 'crime'.

The relative ease of presentation of supplementary benefit fraud cases may, however, lead to a certain complacency on the part of D.H.S.S. investigators and prosecutors. According to one prosecuting solicitor whom I interviewed the case against supplementary benefit claimants is often 'full of holes'. He argued that in many instances he could 'get them off on technicalities'. This raises the important issues of the adequacy of the legal and procedural advice made available to claimants accused of fraud, and their access to legal representation.

his shoulders and with head bowed said 'It was one of those things I suppose'. This apparently flippant comment was clearly the result of nervousness, and demonstrated Bert's lack of knowledge concerning how to conduct his case. He was fined a total of £180 with costs of £35 (deductions were already being made from his supplementary benefit payments to recover the benefit overpaid as a result of his working and claiming). Yet once out of the courtroom, he seemed confident and articulate: for instance, referring to the magistrates and solicitors around him he commented wryly,

'This lot go on about scrounging, but who do they go to when they want an extension built? They come to us because we're cheap. How's that!'

(Bert)

Although Bert would clearly not have gained added sympathy by expressing these views to the magistrate, our conversation in itself did illustrate the 'communication gap' that had existed in court. The duty solicitor scheme should, in theory, prevent this problem (N.A.C.R.O.,1987), yet a significant proportion of defendants (42.7% in my sample) remain unrepresented. In addition, 93% of the sample pleaded guilty, despite the comments made by a prosecuting solicitor (noted above) suggesting that there may be weaknesses in the cases prepared by the D.H.S.S., weaknesses that could be revealed by expert counsel.

The duty solicitor scheme should, then, enable defendants to obtain legal counsel, but the quality of the advice they may receive from these hard-pressed solicitors is questionable. For instance, one duty solicitor whom I observed evidently did not understand the regulations governing entitlement to supplementary benefit, particularly in relation to wife's earnings. As a result the defence he offered was both irrelevant and



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counter-productive. It is hard to imagine tax lawyers making such errors in defending their (high paying) clients, and even harder to imagine an individual accused of tax fraud being unrepresented in court!

Analysis of Revenue and D.H.S.S. investigatory techniques has indicated significant disparities in the conduct of interviews with fraud suspects (see 5(1) and (2) above). For instance, the 'Hansard' procedure and the practice of Revenue investigation specialists of supplying a record of proceedings to interviewees are evidence of a 'professional' approach to investigation (Cmd. 8822, 1983). They also, perhaps, reflect the Revenue's respect for the rights of taxpayers who have the financial and legal 'muscle' to insist upon those rights. By contrast, supplementary benefit claimants have less official knowledge of their rights and no means with which to purchase the best professional advice and representation. Agencies such as Citizens Advice Bureaux and local government financed Welfare Rights Centres offer invaluable assistance to claimants, in obtaining their benefit entitlement and in dealing with investigations (O.W.S., 1986). C.A.B. advisers I interviewed said that claimants felt that they 'had a better deal' from the D.H.S.S. when advisers were present at interviews.

The possible consequences for claimants who do not receive advice (professional or voluntary) is evident in the experiences of Caroline and Barry, both of whom were unrepresented when facing supplementary benefit fraud charges in court. Caroline was not advised by the D.H.S.S. or the court to seek representation, and Barry was told by a D.H.S.S. official that there was 'no need to get a solicitor' because his case would probably not go to court, and if it did he would probably receive a conditional discharge. Barry was prosecuted, convicted, sentenced to a fine (plus

costs), and told by the magistrate that he would have received a custodial sentence but for his being a father of four small children. He felt that he had been misled by departmental officials and had been unaware of the gravity of the sentence which the offence (working while claiming) was likely to attract. Caroline received a custodial sentence (see discussion of sentencing in 3) below).

It is conceivable that the first indication a claimant suspected of fraud has that something may be 'wrong' could be the cessation of their benefit payments and a request that they attend the local office for interview. At this stage claimants are invariably unrepresented and so may face the official accusation, (and presentation of 'evidence') of fraud without guidance on their legal rights or the possible implications of statements they may make. Prior to the Police and Criminal Evidence Act (1984) the D.H.S.S. did not advise claimants suspected of fraud to seek legal help: with the advent of P.A.C.E. there is now a requirement to inform all persons interviewed under caution 'that they may obtain legal advice if they wish to do so' (D.H.S.S. p.c., 1986).

Research has indicated that most claimants who have engaged in fiddles do admit their offences when confronted by D.H.S.S. officials. But it is significant that several claimants, (who were interviewed by investigators and admitted their offences), were unaware of the possibility of prosecution, believing that when they agreed to repay the amount of benefit overpaid to them, the matter would be resolved. In addition, many claimants are not fully aware of how their overpayments are determined, and feel that they are bound to accept 'official' figures, whether they understand them or not. As N.A.C.R.O. commented, 'it would be regarded as



intolerable that a demand for tax should be made without an explanation of how it is calculated' (W.A.C.R.O., 1986).

The issue of claimants' access to representation and advice raises important questions concerning their ability to exercise the same rights as taxpayers when accused of fraud. Yet when knowledge of the benefit system is made more freely available to claimants, the assertion that such knowledge is tantamount to 'abuse' is frequently made: this was the case when welfare rights agencies promoted claimants' rights to exceptional needs payments (prior to the 1986 reform of these single payments - see section (2) above). The word abuse is, however, not used to describe the activities of advisers who help taxpayers gain their 'rights' in terms of minimising tax liability: phrases with positive connotations, such as 'tax planning', are used instead. These differences in vocabulary are indicative of more fundamental differences in attitudes towards claimant and taxpayer: those who are perceived as takers from the state are effectively denied the knowledge, the confidence and the opportunity to assert their full rights of citizenship. Those who are perceived as 'givers' are seen as engaging in a contract with the state in which the taxpayers' compliance is essential: compliance is, in great measure, won through ensuring the rights of individual taxpayers (Taxpayers' Charter, 1986).

### 3) Sentencing

'In 1984, the ratio of prosecutions brought by the Inland Revenue to that brought by the D.H.S.S. was 1: 30 ...The ratio of unsuspended prison sentences was about 1: 10 and of all prison sentences, including some suspended ones, it was 1: 14. The greater proportionate severity of sentencing of revenue law offenders



reflects the fact that prosecution is so very much more exceptional and more strictly reserved for very serious cases.'

(N.A.C.R.O.1986:70)

In 1984, 268 Social Security offenders were imprisoned compared to 32 tax law offenders, and this despite the Revenue's aim of seeking harsh deterrent punishments for its most severe fraudsters (ibid). But it should also be stressed that almost 9,000 benefit fraudsters also acquired criminal records in that year, compared with 136 tax fraudsters: even though significant numbers of tax defaulters are dealt with through the imposition of compounded financial penalties, this does not involve the publicity and effective criminalization suffered by benefit fraudsters, who are 30 times more likely to undergo court proceedings (ibid).

The analysis of the sentencing of tax and benefit fraud presented here will seek to identify the rationales behind certain disposals, and to analyse the discourses used in criminal proceedings. Because of the small number of Revenue prosecutions, and consequent lack of opportunity to observe proceedings, 'official' commentaries on selected court cases will form the empirical basis for this section. Observations of supplementary benefit fraud cases in a magistrates court (together with additional local press coverage) will form the basis of the analysis of sentencing rationales for benefit fraud cases.

The Revenue's prosecution criteria (analysed in 1) above) are evident in the types of cases selected for proceedings, which involve for instance, failure to make full disclosures, particularly 'heinous' cases and those involving professional advisers. In case (A) Mr and Mrs.A. had substantially under-estimated farming profits and enjoyed a 'tax holiday' for almost a decade, after which they failed to make a full disclosure. The

tax thereby lost together with the interest on it amounted to £14,923. They were each sentenced to 6 months imprisonment on each of three charges, suspended for 2 years, to run concurrently. Additional fines totalling £1,000 were imposed, the judge saying that the courts had 'no sympathy' in such serious cases. Harsher sentences are often imposed upon professional advisers who engage in fraud, and the nature and scale of the frauds involved also appear to play a part in determining sentences. For instance, Mr B. was a chartered accountant who was found guilty of conspiring to defraud the Revenue of tax amounting to £500,000. He was sentenced to 9 months imprisonment and was referred to by the judge as a 'gamekeeper turned poacher'.

But even the sentencing of dishonest tax advisers may be influenced by 'mitigating circumstances': Mr C. was an accountant who pleaded guilty to three charges of falsifying accounts. In mitigation it was argued that

'his professional career had been shattered...he had been a busy professional man, of high reputation in the local community, who had now lost everything through what were admitted as serious irregularities on his part.' (A.I.T., 1982)

He was sentenced to pay fines of £500 on each charge. Similarly Mr D. who was found guilty of Common Law cheat in relation to the submission of false accounts was not given a custodial sentence in view of his age 'previous good character...the anxiety and general disgrace caused' and was sentenced to a £1,000 fine. The social disgrace suffered by the offenders in these cases was being presented as a form of punishment in itself, yet similar rationales are not used in mitigation where supplementary benefit fraudsters are concerned. The fact that the latter are almost by definition poor appears to effectively preclude the 'loss of status' plea in



mitigation. In addition, the degree of punishment which the sentence of a fine inflicts is relative to the wealth and income of the offender: despite financial penalties imposed by the Revenue and fines imposed by the courts, many tax fraudsters are well able to pay. The same cannot be said in relation to fines imposed on offenders who already live on the official 'poverty line' (see the Ability to Pay discussed in 4) below).

In the case of Mr E., a chartered accountant found guilty of defrauding the Revenue of £8,322 defence counsel emphasised Mr E.'s 'poor financial circumstances and the effect that the trial would have on the future income from the practice'. The judge took note of this and other mitigating factors and imposed a fine of £2,000 rather than a custodial sentence. Once again it appears that the status of the offender and the effects that court proceedings will have upon their future employment and earnings is taken into account when determining sentence. As will be seen below, being in regular employment may prove a similarly influential factor where benefit fraudsters are concerned, but for very different reasons: the view that the offender should no longer be financially dependant upon the state appears to be more influential than the notion that they have 'suffered enough' as a result of criminal proceedings, this notion being implicit in the sentencing of some tax offenders.

A particularly serious case of tax fraud involved Mr F. a successful salesman who falsely claimed to have emigrated to the U.S.A. and therefore evaded U.K. tax. Two days before he completed a written declaration to the Revenue (stating that he only visited the U.K. on business), he had agreed to purchase a £200,000 home in Chelsea (in his wife's name): his claim to non-residence was bogus. When arrested Mr F. was intending to go to the Bahamas 'on a one way air ticket'. The Revenue estimated that tax and



interest lost could amount to over £300,000. Mr F. was sentenced to 18 months imprisonment, 12 months were suspended, and fined £6,000. He was also ordered to pay costs of £9,000 and a criminal bankruptcy order was granted. However, arguments used by his defence counsel were that Mr F.'s current U.K. company employing 50 people would collapse without him, and that 'the atmosphere of corporate tax manipulation within a multinational group' contributed to the offences. Although an extremely serious offence, the bogus non-residence claim was being represented as the product of the pressures of the corporate business world.

In prosecuting 'a selection of the most serious cases' the Revenue seek to deter future possible offences. But the selection chosen still appears to concentrate upon provable cases (see legal issues raised above) which often involve relatively small-scale individual frauds (as discussed above, large scale corporate tax fraud is beyond the scope of this thesis). But the status of the offender within the business community may be seen as another factor influencing sentencing, together with the desire of the Revenue to promote the compliance of individual taxpayers. For example, Mr G. was a secondhand car dealer in the Liverpool area who, following V.A.T. offences was also found to have substantially under-estimated his trading profits. But his fraud was lacking in sophistication compared, for instance, with Mr F.'s international fiddle: Mr G. had submitted accounts which, when analysed by investigators, 'indicated that...he and his wife and three children had lived on £273 during a period of 11 years', despite his admitting to owning homes in Liverpool and Alicante! He was sentenced to imprisonment for one year, a heavier sentence than Mr F. received at Knightsbridge court for a substantially larger fraud (A.I.T., 1981, and 1983).

Without drawing too firm conclusions from a small sample of tax prosecutions, it is fair to say that the Revenue seeks custodial sentences for those most serious cases which are selected for prosecution (O.V.S., 1987). Bearing this in mind, suspended prison sentences and fines are often imposed instead. I do not argue that it is desirable to imprison more tax fraudsters, but would rather argue that the differences in prosecution policy and judicial response to tax and to supplementary benefit fraud indicate gross social inequality. This is particularly evident in the case of Caroline.

Caroline was the subject of a D.H.S.S. investigation in 1978 when, following an anonymous tip-off from her employer, she was interviewed under caution. She admitted working part-time in a pub earning a total of £58, although by the time of the court hearing she no longer worked there. Caroline was 20 years old and living with her boyfriend. Because the tenancy of the flat in which they lived was in her name, she was regarded as the claiming partner and so was the subject of the prosecution. Caroline was from a middle class background and had received a public school education, but she had 'been in trouble with the police' for minor offences. Her address, given in court, was in a 'bad' area, renowned for poverty and for crime. A social enquiry report was 'favourable' towards Caroline, but was largely ignored and she was given a custodial sentence, according to the magistrate, 'to teach you a lesson'. As already discussed, she was unrepresented in court and was completely unprepared for the possibility of imprisonment: the first 3 weeks of that sentence (she served 3 months in all) were served at Risley Remand Centre. It is almost inconceivable that an individual who defrauded the Inland Revenue to the tune of £58 should receive a custodial sentence, to teach them 'a



lesson'. It is also highly unlikely that such patronising comments would be passed by the judiciary in cases of tax fraud (see also the cases of Bert and Jim discussed below). It is a paradox that the Revenue now write-off up to £70 tax underpaid by P.A.Y.E. taxpayers as 'not worth collecting', yet supplementary benefit claimants who fiddle amounts less than £70 (for instance, by fiddling and altering giro's) may still be prosecuted (O.V.S., 1987; N.A.C.R.O., 1986).

In the case of Caroline, issues relating to her class and gender may well have influenced the sentence passed. She felt that the magistrate regarded her as too independant for a 'young woman' of 20: she was living with a man and held the tenancy of a flat. Furthermore, she worked as a part-time barmaid, the job in itself evoking stereotyped sexualised images, which were particularly false in her case - she rejected her boss' advances and, ironically, it was this that led to her being investigated by the D.H.S.S.. Caroline also felt that she was regarded as doubly deviant because of her apparent rejection of her middle class family background.

Bert reacted to the realities of supplementary benefit prosecution in a philosophical way, yet stressed

'It's not as if we've beaten up old ladies and stolen their handbags, is it? We've not hurt anyone.'

But in sentencing one offender, a magistrate referred to benefit fraud as 'one of the worst forms of stealing there is'. This discrepancy in these preceptions of the relative seriousness of benefit fraud perhaps confirmed an assertion made by another offender, Jim, who referred to the magistrate as being 'On another planet to us'. Another claimant similarly told me 'They don't live in the same world as us. They don't know what our life is like'. If there is a relationship between perceptions of the seriousness



of certain offences and the degree of personal empathy with the likely offenders, then this may affect the prosecution and sentencing of tax and benefit fraud: 'If the wrongdoer is someone like themselves and the situation a familiar one, people tend to be less censorious' (Jowell and Witherspoon, 1985). The judges and magistrates who sentence tax and benefit fraud are far less likely to be familiar with the situation of supplementary benefit claimants.

Jim was prosecuted for failing to declare his wife's earnings over a one year period, during which time they were attempting to pay off accumulated debts of over £1,000. Jim had admitted the offence and agreed that the benefit overpaid be deducted from his weekly supplementary benefit payments at the rate of £1.65 per week. In sentencing Jim the magistrate said ,

'this country's fed up to the teeth with people like you scrounging from fellow citizens.'

He was sentenced to fines totalling £210 and ordered to pay costs of £34. It is difficult to see the rationale behind a sentence which inflicts further financial penalties upon a family (with three school-aged children) who effectively live below the poverty line because of deductions made for a £996 overpayment, and whose offence was itself motivated by an attempt to clear debts of a further £1,000. Under such circumstances Jim's 'joke' to his friends after the hearing was a sad indication of the family's plight: 'Ah well, I suppose it's the red light under the porch now.'

The proportion of indictable offences dealt with by fines is declining: in the 1970's 50% of such offences were dealt with by fines compared with 40% in 1985 (N.A.C.R.O., 1987). This shift has been linked with rising unemployment, although research has indicated that magistrates' sentencing

patterns vary according to an area's history of unemployment and the existing unemployment rates (N.A.C.R.O., 1987). Nonetheless, courts were less likely to modify financial penalties for those on low incomes where supplementary benefit fraud was concerned (ibid:48). This view is consistent with my own research in which 40% of offenders in the sample were sentenced to pay fines and 78% were ordered to pay costs (see Appendix 4). But over the six year period covered in this study there was a discernable increase in the use of conditional discharges and comparable reduction in the use of fines: during the period 1981-3, 22% of offenders were sentenced to a conditional discharge and 44% to fines. In the year 1986-7 the same proportion of offenders (37%) were sentenced to conditonal discharges and fines - this trend perhaps reflects a growing acknowledgement of the inappropriateness of fines in dealing with the crimes of the poor.

As evident in the case of Caroline, magistrates can be both punitive and patronising in their attitudes towards benefit fraudsters: one magistrate used the same phrase on three occasions when sentencing supplementary benefit offenders: 'You are old enough to know better'. One offender reprimanded in this manner was 42 years old. Another was told when sentenced to 'pull himself together', and reference was made to his 'deceiving society'. But one offender who was sentenced to a community service order was told that although he was 'in great danger of going to prison today, there is one plus in your favour - at least you're working'. The worst 'crime' is evidently to be financially dependant on the state.

One issue raised when analysing the sentencing of tax and benefit fraudsters is the tendency of a 'ratchet effect' to be operative in the case of unemployed offenders:

'an offender who has had, say, fines and a probation order is more likely, other things being equal, to be considered for a higher tariff disposal next time, and being unemployed may accelerate this process.'

(N.A.C.R.O., 1987:25)

As many tax defaulters are likely to be dealt with by the Revenue policy of financial settlement (and penalties as appropriate), they are not subject to the ratchet effect: tax fraud is usually dealt with by 'civil' proceedings within the department, supplementary benefit fraud, despite an avowed non-prosecution policy by the D.H.S.S., is more likely to result in 'criminal' proceedings. These in turn may have the cumulative effect of moving the offender's sentencing tariff upwards. This factor may accentuate the already unequal departmental and judicial response to those who defraud the Revenue and those who defraud the D.H.S.S.



#### 4) The Ability to Pay.

There is a common assumption that the differential treatment of tax and benefit fraud derives from disparities in the offenders' relative 'ability to pay', in terms of repayment of money lost to the public purse or in terms of added financial penalty. It is often asserted that this explains both the high rate of prosecution of poorer fraudsters by the D.H.S.S. and the comparably low rates of prosecution, (coupled with emphasis on financial settlement) by the Inland Revenue where richer fraudsters are concerned. However, this argument ignores the fact that the poorest members of society do pay for their fiddles, both in reparation to the D.H.S.S. through deductions from benefit, and in reparation to society through the courts, where in 1983 62% of benefit fraudsters were also ordered to pay fines (N.A.C.R.O., 1986 - but see discussion of sentencing above for recent changes). What follows will examine the contradictory rationales which underpin departmental and judicial assumptions concerning the individual taxpayer's or claimant's ability to 'pay' for their fiddles.

The D.H.S.S. has the power to recover overpayments resulting from fraud in four ways: by deduction from future benefit (the most common method, accounting for two-thirds of all recoveries), by lump sum payment, by instalments or by compensation order. Until 1980 departmental practice followed the rule that any deductions from benefit made in respect of overpayments should not reduce the claimant's income to below the basic supplementary benefit level, regarded as the 'poverty line'. But current regulations enable up to £6.30 to be deducted from the weekly benefit of claimants accused of fraud and, as mentioned above, claimants are not always fully aware of how their overpayments have been calculated (N.A.C.R.O., 1986:65). It is difficult to see how benefit fraud is deterred

by the use of recovery methods which can reduce a claimant's income to £6.30 below the poverty line and, if criminal proceedings ensue, possibly involve a fine imposed by the courts in addition: under such circumstances fiddling benefits or other crimes, ironically, may become the only means of financial survival.

Taxpayers are almost by definition better able to pay financial penalties than benefit claimants as the former do have a source of earned or investment income upon which they are liable to pay tax. For this reason, as we have seen already (in sections (1) and (3) above), the taxpayers' ability to repay tax lost and to pay additional compounded penalties where appropriate is used as a justification for 'sparing the taxpayer's feelings' and for the adoption of an essentially non-prosecution policy. Most tax officials I have spoken to have a sympathy for this approach on practical grounds, but nonetheless they object to the 'double standards' evident where benefit fraudsters are concerned. This not only applies to disparities in prosecution policy, but also to some of the justificatory rationales used in respect of those policies.

Officials were particularly aware of the relatively extensive publicity which 'scrounging' attracts in comparison to tax evasion. But publicity is inextricably linked to the reporting of criminal proceedings in the courts, and if tax fraud cases do not reach the courts, then public awareness of the extent and costs of the problem will be minimal. In order to justify this 'softly softly' approach to publicising tax evasion it is sometimes argued that this is the most effective means of ensuring taxpayers' compliance with investigators:

'The Inland Revenue argues that people will be prepared to co-operate more if they "settle out of court", as it were, with no



fuss. I think that is probably correct, but there is a need to weigh up the relative value of publicity as a deterrent, in relation to the lack of publicity being helpful in a handful of investigations.' (O.V.S., 1985 - my emphasis added)

This rationale for the relatively 'quiet' treatment of the tax fraudster is closely linked to the mitigation offered in court (see cases discussed in 'sentencing' above), that social disgrace is in itself a punishment for tax evaders. The notion that a fraudster has 'suffered enough' merely through the public exposure of his/her crimes is one which is ~~is not~~ applied to supplementary benefit fraudsters. Indeed, the media treatment of them suggests just the opposite! It seems that in order to 'pay' for one's crimes through personal suffering and disgrace, one has to have some social standing to lose: hence these discourses are not available to justify lenient treatment of benefit fraud.

Although differences in the ability to pay offer a simple justification for the differential official and judicial responses to tax and benefit fraud, such justifications are themselves a product of particular sets of beliefs about the relative personal and economic worth of citizens who claim money from the state and citizens who pay money to the state. These beliefs are evident in discourses used in courts, by departmental officials (see sections (1) and (2) above) and in popular rhetoric (see Chapters 3 and 6).

In summary, the poor who defraud the D.H.S.S. are required to pay, to the department and to society, as a punishment for their crimes. Those who defraud the Revenue may well pay financial penalties, but these are more likely to be civil, in nature and in tone: they are less likely than benefit fraudsters to suffer criminalization and public villification.



## CHAPTER 5 - SUMMARY.

This Chapter has described the departmental enforcement policies and investigation methods used by the D.H.S.S. and by the Inland Revenue, and has examined the outcomes of those investigations in terms of penalties and prosecution. Concomitantly, the relationship between policy and practice has been analysed, and is summarised in Tables 5: 5 and 5: 6 below.

### TABLE 5: 5    RATIONALES FOR TAX INVESTIGATIONS

#### OFFICIAL ENFORCEMENT POLICY RATIONALES

- to protect the public purse.
- to ensure the compliance of the taxpayer to the Taxes Acts.
- to ensure the rights of the taxpayer.

#### EFFECTIVE RATIONALES, IN PRACTICE

- to minimise administrative hassle - get the job (of collecting taxes) done.
- to operate as effectively as possible - given the practical constraints of manpower and resources.
- to spare the taxpayer's feelings - seek compliance through negotiation, effectively underclassify offences to minimise taxpayers' resistance, obtain financial settlement wherever possible, prosecute very rarely (only in the most serious cases).

#### GUIDING PRINCIPLES

- Pragmatism
  - Compliance
  - Tacit acknowledgement of the 'intrusive' view of personal tax
- 

The Inland Revenue's enforcement policy has often been presented as a logical departmental response to the material realities of enforcement: hence the Revenue's effective, non-prosecution policy is represented as the result of the practical constraints encountered in achieving the department's primary goal - the protection of the Taxes Acts and the public purse. According to this view, the tax evader should be persuaded to

comply and pay his/her tax, and criminal sanctions should be reserved for only the most serious of offenders . This approach is justified as the most effective means of deterring potential fraud whilst at the same time maintaining public confidence in our taxation system. It underpins enforcement policy, investigatory practice and judicial response.

The rationale of protecting the public purse generates different departmental policy and practice when applied to the enforcement of social security law (N.A.C.R.O., 1986).

#### TABLE 5: 6 RATIONALES FOR SUPPLEMENTARY BENEFIT INVESTIGATIONS

##### OFFICIAL ENFORCEMENT POLICY RATIONALES

- to protect the public purse
- to ensure the efficient payment of benefit in accordance with the rights of the claimant
- to prevent fraud and abuse

##### EFFECTIVE RATIONALES, IN PRACTICE

cost-effectiveness - demonstrated by departmental cost-cutting, reductions in routine staff (but not fraud staff) and 'benefit savings' achieved as the result of anti-fraud work

the effective policing of welfare - in practice accomplished through the routine stigma of the claiming process, work tests, and the surveillance and investigation of 'target' groups.

efficiency - get the job done, given the practical difficulties (arising from 'cost-cutting') for routine D.H.S.S. staff and claimants.

##### GUIDING PRINCIPLES

Detection and punishment of 'scroungers'.

Means testing, to establish needs (and desert).

Tacit acknowledgement of the distinction between the 'deserving' and 'undeserving' poor.

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Cost-effectiveness coupled with the rigorous policing of the supplementary benefits system have been the principal goals of departmental policy since 1979, (although it must be remembered that 'scroungerphobia' and high numbers of fraud prosecutions are not confined to the era of the Thatcher government alone - see Golding and Middleton,



1982). But contradictions between the apparent discourses surrounding official responses to benefit fraud, and the operative rationales which effectively determined policy and practice, reflected deep-seated ideological contradictions over the twin issues of taxation and welfare. As Chapter 3 suggested, the tension between the competing ideologies of individualism and of social justice has never been resolved: these tensions have given rise to differing perceptions of the relative importance of the state and the individual, and the claimant and taxpayer. It is within the material and ideological context of these contradictions that differential responses to tax and benefit fraud are generated.

This Chapter has examined what happens to taxpayers and benefit claimants when their affairs are investigated by departmental officials. Interactions between tax officials and taxpayers were found to be characterised by respectful formality, and due attention to the taxpayer's rights as outlined in the Revenue's 'Charter'. By contrast, interactions between D.H.S.S. officials and claimants were characterised by mutual distrust and by stress (Mandla, 1987; P.S.I.,1985). Although there were some similarities in the investigatory techniques used by the two departments (for instance the common use of surveillance, targetting and in-depth interviews), there were significant differences in the practical operation of such techniques: for instance, surveillance by Board Investigation Officers is undertaken only with prior evidence of fraud, whereas surveillance by Special Claims Control Units could proceed on grounds of 'suspicion'. Similarly, compliance officers target certain occupational groups for investigation, but this does not involve the degree of coercion that was apparent in the targetting of vulnerable claimant groups by S.C.C.U.'s (O.W.S., 1982; N.A.C.R.O.,1986). Although no longer in



operation, S.C.C. have left a legacy of poorer relations between claimants and D.H.S.S. staff (and amongst D.H.S.S. staff themselves), and a proactive and intrusive approach to the policing of welfare recipients.

Differences between official policy discourses and effective practice have also been analysed in relation to prosecution policy. For example, although the D.H.S.S. at present officially operates a policy designed to reduce numbers of prosecutions and seek 'benefit savings', effectively they continue to prosecute around 9,000 supplementary benefit claimants per annum: this contrasts with the official 'selective' approach to Revenue prosecutions which effectively resulted in only 332 prosecutions in 1984. Moreover, the justificatory rationale behind both policies - deterrence - is not applied equally to tax and benefit fraudsters, nor are the judicial punishments imposed on them based on similar premises: analysis of discourses used in court demonstrate crucial differences in the assumptions being made about claimant and taxpayer. In some cases it seemed that tax evaders were presumed to be victims - either of the ethos of the business and corporate world, or victims of the disgrace of their fellow citizens - as a result of Revenue prosecution. According to magistrates observed in this study, in cases of supplementary benefit fraud the victim is the taxpayer (who was seen to finance benefit payments), not the benefit fraudster. The tax fraudster is represented as at best folk-hero, at worst a victim of the taxman (Chapter 3(a)).

At the heart of the contradictions in policy and in practice which have been analysed here is the ideological representation of the taxpayer as a 'giver' to the state and the supplementary benefit claimant as a 'taker' from the state (and thus, ultimately, from the compliant taxpayer). These representations are the product of the particular histories of tax and

welfare. These histories are characterised by a strong resistance to taxation, save in times of national crisis (for instance, during war or post-war reconstruction), and a parallel struggle over collective welfare provision, which was similarly and grudgingly accepted after the crises of two World Wars. Specific economic, social and political preconditions therefore underpin attitudes to tax and welfare at particular times. Contradictory political, social and judicial responses to tax and welfare rest upon combinations of beliefs about the nature of the relationship between the state and the individual, and the desirability of social justice or economic growth as the primary goal of modern mixed economies. These combinations of beliefs, the vocabularies they invoke and the policies which they generate are summarised in Table 5: 7 below.

TABLE 5: 7 DIFFERENTIAL IDEOLOGICAL PRECONDITIONS FOR ENFORCEMENT POLICY

TAX	WELFARE
ECONOMIC IDEOLOGIES Free Market Individualism	Social Justice Collectivism
POLITICAL IDEOLOGIES Liberal minimalist state	Democratic interventionist state
LEGAL IDEOLOGIES 'Mens rea' (‘Sporting’ view of law, tax frauds as ‘fiddling’)	Strict liability (‘punish scroungers’, benefit fraud as ‘crime’)
ORGANIZATIONAL IDEOLOGIES Compliance Spare the taxpayer’s feelings Fraud deterred by exemplary prosecution of the few.	Control Police the poor Fraud deterred by prosecuting some and policing many others.

## CHAPTER 6

### DIFFERENTIAL RESPONSE TO TAX AND SUPPLEMENTARY BENEFIT FRAUD

#### - SUMMARY AND CONCLUSIONS

The slogan that there is 'one law for the rich and another for the poor' often surfaces in critical social commentaries. This thesis has examined the clichéd slogan by analysing the legal, social, material and ideological responses to the economic crimes committed by individuals who approximate to the 'rich' and the 'poor' in contemporary Britain. In order to ensure meaningful comparisons between individual lawbreakers, the 'relatively rich' taxpayers and the 'poor' supplementary benefit claimants were the chosen focus of study. This enabled the techniques and vocabularies of motive of individual tax and benefit fraudsters to be directly compared. Similarly, direct comparisons could be made between the departmental techniques used to regulate individual tax and benefit fraudsters, and the official rationales for Revenue and D.H.S.S. enforcement policies and practices.

Chapter 1 examined the themes which emerged from a review of literature relating to taxation and welfare benefits. These themes were then utilized to inform the subsequent analyses, in later chapters, of:

a) the historical, legal, administrative, and material preconditions for the commission of tax and supplementary benefit fraud (Chapter 2)

b) how 'commonsense' knowledges about tax and benefit fraud are constructed (Chapter 3(a))

c) consistencies and contradictions in knowledges about tax and welfare.



d) contradictory discourses on personal taxation and welfare provision.

e) the techniques and justifications used by tax and benefit fraudsters (Chapter 4),

f) the deconstruction of 'official' discourses on D.H.S.S. and Inland Revenue enforcement policies, and examination of regulatory practices Chapter 5 (1) and 5(2)).

g) Official and judicial discourses on the rationales underpinning, and means of effecting, the punishment of tax and supplementary benefit fraudsters (Chapter 5(3)).

The utility of such an analysis will be demonstrated in the final section of this chapter (a brief analysis of the contrasting discourses justifying the 1988 Budget and the Social Security Act (1986), implemented in 1988). In the meantime, principal themes which emerged from the literature review (and thereafter informed these analyses), can be summarised as follows:-

1) The 'deserving' and the 'undeserving' poor.

The 1834 Poor Law left an important legacy which has influenced contemporary attitudes towards, and vocabularies used to describe, the poor. Implicit distinctions were made between those categories of poor who were seen to be 'deserving' of relief - the aged, the sick, children and the infirm - and those who were regarded as 'undeserving' - the unemployed or 'idle' paupers. These distinctions still inform popular rhetoric and, currently, social policy towards the unemployed and a new category of

claimants who could, it is argued, similarly 'avoid' poverty - lone mothers.

The twin pillars of the 1834 Poor Law were the principles of less eligibility and the workhouse test. These principles remain operative in the 1980's, although in differing forms. For instance, pressure for unemployed benefit claimants to attend Job Clubs, the Restart interviewing programme and increasingly stringent tests of an individual's 'availability for work' all signify an intensification of the 'work test', which now operates within the community, rather than within the walls of a workhouse. Such measures are, according to official pronouncements, designed to 'show people how to look for jobs more effectively' and to remotivate the unemployed. Yet an important latent function is to 'detect the "scroungers" and those not genuinely available for work' (Guardian, 23.2.88 and 27.12.86).

Less eligibility still surfaces in arguments which invoke the notion of 'incentives to work' (see below) and the 'anti-effort' (or unemployment) trap. Currently, discourses centring on the implementation of the 1986 Social Security Act stress, amongst other issues, the officially stated goal of providing incentives for the unemployed to take low-paid jobs (B.B.C. Newsnight, 31.3.88). Such incentives will only be provided if the claimant's lot is rendered 'less eligible' than that of the lowest paid worker (Ruche and Kirchheimer, 1939).

Taken together, the principles of less eligibility and the work(house) test still exert important influences upon popular perceptions of

(a) those who are by virtue of their age, health or 'unavoidable' misfortune 'deserving' of state support, and

(b) those who are, because of their lack of effort (or their lack of adherence to the 'moral' nuclear family form), regarded as 'avoidably' poor and hence 'undeserving' of state support.

## 2) Penalty, welfare and taxation

An important theme which informs any analysis of welfare provision is the issue of penalty: work tests and less eligible levels of welfare benefits (already described), inevitably result in the state functioning, through the claiming process and mechanisms of benefit payment, to instill discipline into welfare recipients. A generalised discipline may be seen to encompass the generation (through such processes) of sentiments of stigma and guilt, to which all claimants are exposed. But for the undeserving, an added 'obstacle course' is presented by informal welfare rationing, 'mucking about' and attempts to maintain the work discipline through specific 'tests' and deductions (from already-less-eligible levels of benefit), for 'voluntary unemployment' (Deacon and Bradshaw, 1983; Walker and Walker, eds., 1987).

Because welfare recipients are 'takers', the state may lay down conditions upon which their benefit is to be received. The state thus has the power to punish those who cannot, or will not, meet those disciplinary criteria - benefits can be reduced or withdrawn, and in some circumstances individuals may be prosecuted for failure to financially maintain their families (Lynes, 1985). By contrast, taxpayers are 'givers' to the state and the discipline to which they are subjected is less rigorous and less direct - as a result, attempts to enforce the Taxes Acts frequently attract vociferous condemnation: for instance, a recent series of articles on Revenue investigation policy in The Times (February and



March 1988) were headlined 'Tax claw in the velvet glove', 'Shifting the Burden of proof' and 'Targets for the hit squad'. In response to the aggressive anti-Revenue tone of these articles Bill Hawkes, Assistant Secretary of the Inland Revenue Staff Federation, commented,

'Every successful challenge or investigation which recovered tax, means that someone has lied to the Revenue - not just made a mistake. When the white middle classes lie it is seen as part of the game. If black working class people lie to the D.H.S.S. the morality of it is seen quite differently.' (Assessment, March 1988)

The vocabularies of the 'game' of tax evasion and the (lack of) 'morality' of benefit fraudsters are important themes in elucidating differential popular responses to tax and benefit fraud. But the complex problem of differential response cannot be 'read-off' as a product of structural inequalities of class and race alone: it can, rather, be seen as a product of the historical and ideological construction of taxation as an intolerable inquisition to which the 'giving' taxpayer is subjected, in order to finance those who 'take' welfare benefits from the state. Thus the differential powers of the state (legal and administrative), and the political will of the state to discipline and punish defaulting taxpayers and undeserving claimants are crucial in explaining differential response to tax and benefit fraud.

### 3) The incentives debate

Arguments which suggest that 'high' levels of welfare benefits act as an incentive to idleness, and 'high' rates of taxation act as a disincentive to effort remain ideologically powerful, despite their dubious empirical foundations (Chapter 1(2)). This version of the incentives

argument enables tax fraudsters to be represented positively, often as enterprising individuals who are merely resisting 'excessive' personal taxation. Within this context tax evasion may be transformed from economic crime to a battle of wits to beat the taxman or as a 'part of the game' of capital accumulation, which is the taken-for-granted goal of the 'Growth' orientated society (Chapters 3 and 4(1)).

At the same time, this view of incentives represents benefit claimants as welfare-drones or 'battery hens' who enjoy servitude and dependency (Boyson, 1971 and 1978). Their incentive to work is seen to be sapped by their very idleness and the 'moral hazard' of claiming state benefits (Parker, 1982). Alternative discourses stress that the highest marginal rates of tax are not suffered by the enterprising middle classes, but by the low-paid, and go on to argue that the unemployed are not prevented from working by 'high' levels of state benefits but, rather, by mass unemployment and the chronic problem of low pay (Roll, 1983). Nonetheless, these critical versions of the incentives argument fail to gain dominance within a capitalist economic framework, dominated by New Right discourses, wherein low wages are seen to mean higher profitability, workers allegedly need to 'price themselves into jobs', and lower expenditure on benefits (potentially) enables lower taxes.

The pre-eminence of the ideology of what may be termed the 'effort' school of thought is particularly assured whilst political power rests with advocates of New Right politics. Their contemporary stress on the value of the 'enterprise culture' and parallel denunciation of the 'benefit culture' serves to polarise popular discourse on taxation and welfare. It is within this economic, historical and ideological context that



differential responses to tax and benefit fraudsters are reproduced and justified.

#### 4) The 'Robin Hood' myth of a postwar redistribution of income and wealth

The 'Robin Hood' myth reflects the widely held belief that, since 1945, a fundamental redistribution of income and wealth has taken place. This belief is not supported by empirical evidence (Byrne, 1987), yet remains ideologically powerful. In propounding the 'Robin Hood' effect which has allegedly been achieved by progressive taxation, such mythologies effectively present the taxpayer as 'giver' to the poor and the poor as 'takers' from the taxpayer and thus the state. This mythology serves two ideological purposes: first, it offers a justification for tax fraud in terms of resisting 'progressive' taxation, which, it is alleged, has gone too far because 'making the rich poorer does not make the poor richer, but it does make the state stronger' (Joseph, 1975). Second, the myth of redistribution effectively denies the principal motivation for benefit fraud - poverty - because the 'real' problem of poverty has been removed through the 'Robin Hood' activities of the state.

#### 5) Differential attribution of motives for tax and benefit fraud

The myth of redistribution therefore raises the issue of differential popular acceptance of justificatory rationales offered for tax and benefit fraud. For example, it has been argued that tax fraudsters may successfully justify their actions in terms of excessive state regulation and 'penal' rates of personal tax (Chapter 4(1b)). Their 'need' to be economically successful remains unquestioned, the accumulation motive taken-for-granted. However, supplementary benefit fraudsters are unable to



successfully invoke their main motivation (poverty), because they are perceived as committing fraud through 'greed' not 'need'. The attribution of this motive derives from concepts of the undeserving poor, coupled with an invocation of 'Robin Hood' myths which present benefit claimants as prime recipients of the 'gift' of state support, enabled by the selfless redistribution of the taxpayer's money.

Vocabularies of motive offered for tax fraud centre on resistance to pay over money legally due to the state, whereas the benefit fraudster attempts to justify taking money illegally from the state. The result is the same - loss to the public purse - and similar activities are engaged in by some tax and benefit fraudsters (for instance, working in the black economy, making false declarations to government departments). But differential attribution of motive essentially derives from the historical and ideological construction of the relationship between taxpayer and the state, and supplementary benefit claimant and the state: the vocabulary of 'givers' and 'takers' thus helps to explain why tax fraudsters may gain popular acceptance (and even muted praise) in defrauding both the state and the honest taxpayer; yet it is benefit fraudsters who are attributed the motives of greed, selfishness and 'immoral' lack of public spirit.

#### 6) Freedom and social justice

As argued above (see Chapter 3), the social philosophies of individualism and liberalism cannot fully be reconciled as they are based upon entirely different premises concerning the relative role of the state and the individual in modern industrial societies: a struggle between these philosophies characterises twentieth century social policy, particularly in relation to taxation and welfare.

From 'The People's Budget' of Lloyd George and Beveridge's 'Social Insurance' to the concept of Social Security in the 1960's, the apparent object of social policy was the achievement of some measure of social justice through the taxation and welfare benefits systems. Yet the economic prosperity upon which such policies were based was seen as being dependant upon adherence to free-market principles. These principles involve the pre-eminence of competition, entrepreneurial spirit, minimal state regulation in the market and personal wealth creation. The ideologies of social justice, and of the free market, though fundamentally at odds, uneasily co-exist and are differentially invoked at particular times according to specific material and political preconditions. Thus, for instance, in times of war the rhetoric of 'fair shares' was invoked to justify progressive taxation and a redistribution in favour of those who had been equal in war and in death. But the Butskellite 'consensus' upon which the postwar welfare state rested was, rather, a grudging compromise (Deakin, 1987).

The ideology of the free market has always epitomised the 'Old Right', and was revitalised by the political ascendancy of the New Right in the mid 1970's: it is, therefore, important to remember that the ideological contradictions which allow space for the practice and justification of differential response have a long history. The contradictions which enable differential responses to tax and welfare fraud derive from a struggle between the competing ideologies of social justice and free market individualism. Such key ideas have never 'disappeared', but have lost dominance at particular times: in this way the generation of knowledges and ideas has been examined here as a process of incorporation and transformation of existing discourses, rather than the creation of 'new'



ones. To this extent the 'New' Right is not new: as Taylor Gooby (1985) argues, this political philosophy weaves a variety of Old right arguments which, for example, derive from both the contradictions of the Butskellite era and the Victorian values of 'self-help' and 'morality'.

By the mid 1970's, the material conditions created by economic recession particularly favoured two interlocking sets of beliefs which have firm roots in the histories of taxation and welfare:

First, the notion of the social security 'scrounger' which echoed nineteenth century stereotypes of the undeserving poor, and which was similarly produced by a concern about the costs of 'poor relief' to the ratepayer/taxpayer.

Second, a belief that allegedly 'progressive taxation' (raised in order to finance benefits to the poor), had gone too far in subsidising the (idle) poor at the expense of the hard-working taxpayer: it was argued that incentives, entrepreneurial spirit and thrift had all been stifled as a result (Seldon ed., 1979; Joseph, 1975).

These two sets of ideas fused in the growing concern expressed, from left and right wing perspectives, about the form and objectives of the tax-financed modern welfare state (Mishra, 1984). Advocates of social justice focussed on the problems of inadequate levels of benefit, poor take-up of means tested benefits, issues concerning claimants' rights and inefficient service-delivery to the poor. By contrast, the advocates of free-market individualism focussed on the intrusive, stifling, inefficient and cossetting welfare state which allegedly fails to 'help the poor to help themselves', whilst at the same time burdens the not-so-poor (taxpayers), who are faced with the spiralling costs of an allegedly unfair and inefficient state bureaucracy.



Taxation and welfare provision are therefore inextricably linked, in free market and social justice ideologies, though the nature of that 'link' hinges upon differing views of the respective roles of the individual and the state. But it is within the context of this historical, ideological and political struggle that the paradox of differential response must be understood and explained, rather than in the simplistic terms of 'one law for the rich and another for the poor'.

During the time when this summary of the central analytical themes of the thesis was being written in April 1988, an opportunity arose to demonstrate the utility of these themes by analysing contemporary discourses on taxation and welfare provision: this opportunity occurred because of a unique combination of 'reforms' of both tax and welfare announced in the 1988 budget (presented on March 15th), and the 1986 Social Security Act (fully implemented in April 1988). The stated motives for both the budget and the social security reforms are strikingly similar:

TABLE 6: 1    RATIONALES FOR THE 1988 BUDGET AND SOCIAL SECURITY REFORMS.

<u>MOTIVES FOR BUDGET REFORMS</u>	<u>MOTIVES FOR SOCIAL SECURITY REFORMS</u>
Promote incentives to effort (for the wealth creators)	Promote incentives to work (for the unemployed, the young)
Radical reform, geared to simplification of the tax system (e.g. reduce the series of higher rate taxes to one rate - 40%)	Radical reform geared to simplification of the benefit system (e.g. same means-testing rules to apply to main benefits)
Greater fairness, e.g. taxing wives separately, stopping 'tax breaks'	Greater fairness e.g. 'more help' for families, targetting the 'needy'

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The themes of reform, incentives, fairness and the added impetus (according to Mrs Thatcher), to 'push the balance back in favour of the

individual' characterise the rhetorics of both the budget and the social security reforms. But the manner in which these vocabularies are applied, in practice, to taxpayers and to benefit claimants are entirely contradictory.

The 1988 budget promised to put the values of 'incentives and opportunity in place of old fashioned egalitarianism' (Financial Times, 16.3.88). According to The Times, Britain had been brought closer to a 'low tax, high incentive economy' (16.3.88). When the New Right version of incentives is applied to taxpayers, they are seen to respond directly to reduced taxation by working harder and seeking out opportunities. In a similar vein, it is argued that dramatic reductions in higher rates of tax were justified by the need to maintain incentives for 'scarce talent' to remain in Britain. These interpretations of the incentives argument were questioned by critics (such as Victor Keegan) who argued that there was no proven link between low top rates of tax and high economic growth:

'Anyone who tries to prove this first has to explain how countries varying from Japan (with a top rate of 78%) and Sweden (even higher) have achieved better prosperity than the U.K....There has not been much evidence of an exodus of scarce talent from Japan or Sweden.'

(Guardian, 28.3.88)

Nonetheless, popular press coverage centred on the 'high earners' who were allegedly being encouraged to greater effort in the budget, and the popularisation of this incentives argument proved bizarre, as, for instance, when The Sun announced that

'Burton stores chief, Sir Ralph Halpern - famous for his sexploits - will get a bonking great boost of £5,097 a week.' (The Sun, 16.3.88)



But official discourse also clearly dominated popular vocabularies: Nigel Lawson's assertion that 'Everyone will benefit' was reproduced on March 16th in the form of 'We're *all* in the money' (Daily Express), and 'Lotsa Lovely Lolly' (The Sun). Although the language of The Times was less colourful, it was no less euphoric: 'Lawson's Tax Triumph'.

This powerful invocation of incentives clearly left behind all those who were unable to respond to tax cuts, either because their wages were too low (hence they remained stuck in the poverty trap), or because they paid no tax (the unemployed, and pensioners). But those who disagreed with the 'official' justifications for tax cuts were likely to be branded 'humbugs', and The Daily Mail suggested that they should 'give the money back'. Crucial to an understanding of such popular sentiments is an ideological sleight of hand whereby the (largely working class) readership of The Sun absorbs official pronouncements which justify £2 billion tax cuts to the top 5% of wage-earners, whilst the lowest 30% received virtually nothing (Guardian, 17.3.88), on the grounds of incentives to effort.

Arguments about fairness in the distribution of the 'lolly' were largely absent from official discourses on the budget. But, it was argued, 'Fairness is a vague term at the best of times' and to talk of 'distribution of wealth in a society is to borrow a word from statisticians: you might equally talk of the distribution of car-crashes or Cabbage Whites' (Spectator, 26.3.88). The 'rubbishing' of egalitarianism became an intrinsic part of attempts to restore free market individualism and promote tax incentives to wealth creation:

'Nigel's Budget was the obituary for the doctrine of high taxation..

It was the epitaph for socialism.' (Thatcher quoted in Hall, 1988)



As Stuart Hall (1988) pointed out, 'this budget was "about" the moral values and social principles on which the Thatcherite revolution is premised'.

Thatcherism has long held that the poor respond to the spur of their own poverty (Loney, 1986). Therefore, incentives are seen to operate entirely differently upon welfare recipients, who are presented as needing the 'incentive' of state work-tests and less eligible levels of benefit to persuade them to seek work. Incentives to effort are thus provided, for example, by the abolition of Exceptional Needs Payments. The new Social Fund, according to Social Security Minister Nicholas Scott, 'will encourage claimants to take more responsibility for planning their own spending' (Guardian, 25.3.88). The frequent references to the negative effects of the 'benefit culture' within official discourse on welfare are reminiscent of 1834 imagery of the idle, indolent poor.

However, the deserving poor are allegedly 'targetted' for additional help in the Social Security reforms and once more the distinction between the deserving and undeserving poor is evident in Social Services Secretary John Moore's assertion that

[policy reforms will] ensure a greater coherence, greater fairness

and greater focussing of help to those in need.' (Guardian, 23.3.88)

But representatives of 'Youth Aid' and of 'One Parent Families' argue that the young and lone parents (the new undeserving poor) will suffer disproportionately from these reforms.

The contradictions between free market and social justice ideologies are crucial in explaining the contemporary struggles over the meanings and motives of the Social Security reforms, and the 1988 budget. These reforms will have effects on claimants and taxpayers: in theory the taxpayer,

having been released from the burden of penal rates of taxation, will no longer be forced by the 'intolerable inquisition' to avoid paying taxes, and, moreover, will be able to give more to charity to help the less fortunate. Whether tax evasion and avoidance (muted in the neutral term, used by Mr Lawson - 'tax breaks'), will be reduced as a result of these extensive tax cuts for the rich remains to be seen: it will be the ultimate test of the shaky doctrine of incentives and a litmus test for the justification for tax evasion as a response to excessive taxation (Chapter 4). At the same time, the effective reduction in supplementary benefits (now 'Income Support') will test the justification that most fraud results from poverty: if this is true, then claimants will increasingly find themselves before either the courts or the loan sharks. Alternatively, (or maybe concomitantly), one result of the 1988 budget may be that if it can no longer be argued that the rich have valid excuse for tax evasion, then the New Right may indeed have gone a 'budget too far' and undermined the belief, (even of Sun readers) that the rich are so hardworking and moral that they deserve even more 'lovely lolly'. For, as the analyses of this thesis have suggested, discourses already exist that would make it possible to have very different responses to tax and social security fraud than those that currently prevail, responses that may even reduce the gross inequalities of regulatory practices. Differential response to tax and social security fraud is not determined by immutable economic relations; rather it is the product of certain combinations of material and ideological conditions. The major claim of this thesis is that its analyses have indicated that knowledges about taxation and welfare are forever open to deconstruction and challenge.



## APPENDIX 1.

### BIOGRAPHIES OF INTERVIEWEES

The names listed are fictitious, in order to preserve the anonymity of the interviewees. All the individuals listed below were approached informally through existing personal contacts and 'friends of friends', with the exception of Bert and Jim, whom I talked to following their appearance at Magistrates' Court.

Bill is a 47 year-old self-employed builder and is married with one teenage child. He has worked in the building trade all his life and has been the subject of routine Inland Revenue investigations, frequently does jobs 'on the side', but has never been prosecuted for any offence.

Fred is a 35 year-old British Gas employee who works 'on the side' installing cookers, gas fires and central heating. His wife works part-time and they have two young children.

Gerry is a 40 year-old self-employed builders and plumbers' merchant. He is successful in business, and is married with three young children.

Carol is a 32 year-old mother of three who is now married and working, but formerly claimed supplementary benefit as a lone mother for several years.

Mark is a 33 year-old single graduate who works casually in a variety of occupations while claiming benefit.

Brian is a 32 year-old divorced graduate who claimed supplementary benefit while unemployed for a year. He now has a full-time job.

Heather is a 28 year-old (divorced) mother with two young children who has claimed supplementary benefit for the last five years.

Anne is a lone mother with one child. She claimed supplementary benefit following her divorce two years ago.



Barry is a 26 year-old married father of four young children who has only been able to find temporary and casual jobs since leaving school. He has occasionally 'worked on the side' and was prosecuted for working and claiming benefit in 1982.

Caroline is 29 years old, single and has been unemployed for several years. Caroline was prosecuted for working and claiming benefit in 1978 and received a custodial sentence. (She is about to return to full-time education).

Bert is a recently divorced father of four children. He is now living alone in bed and breakfast accommodation and claims supplementary benefit. He was prosecuted in 1987 for working while claiming benefit.

Jim is long-term unemployed and married with three school-aged children. He is heavily in debt (for rent arrears, hire purchase and 'club' payments). He was prosecuted in 1987 for failing to declare his wife's part-time earnings and sentenced to a heavy fine.

In addition to those specifically mentioned above, 8 other supplementary benefit claimants were interviewed in depth, together with several taxpayers. In addition, the following individuals and departmental officials were interviewed: two Magistrates, three solicitors, two accountants, a probation officer, three welfare rights advisers, four Inland Revenue officers and one senior Revenue official, three D.H.S.S. officers and one senior D.H.S.S. official, National Trades Union representatives from the C.P.S.A. and I.R.S.F., a journalist, a building contractor, a farmer and several small businessmen.

Source: Board of Inland Revenue, 129th Report (1987)

Nature of offence	Number of persons convicted (acquittals shown in brackets)									
	1977/78	1978/79	1979/80	1980/81	1981/82	1982/83	1983/84	1984/85	1985/86	1986/87
False accounts or returns of income	11 (2)	33 (4)	39	31 (7)	27 (9)	13 (1)	28 (2)	21 (1)	22	17 (2)
False claims to personal allowances. deductions for expenses and repayments	5	28 (2)	19 (2)	28	13 (1)	7 (1)	7 (1)	4	3 (3)	3
PAYE: False returns (offences by employers and pay clerks) <sup>1</sup>	14	11	12 (1)	17	16	22 (2)	20 (3)	23 (3)	19 (2)	19 (1)
PAYE: Forgery, impersonation by employees	—	—	5	1 (1)	—	—	1	—	—	—
Sub-contractor exemption certificate frauds <sup>2</sup>	135 (4)	108 (2)	67 (5)	94 (9)	89 (20)	92 (4)	92 (5)	184 (2)	264 (7)	274 (9)
Theft of payable orders and Giro cheques <sup>3</sup>	199 (1)	261	174	227 (2)	235	207 (2)	84 (10)	86	101	138
Assaults on Inland Revenue Officers <sup>4</sup>	5 (2)	1	2	— (1)	1	3	3	1	—	2 (1)
Internal frauds <sup>5</sup>	4	4 (1)	1	4	3	1 (1)	9	12	4	5
Miscellaneous <sup>6</sup>	1	—	—	1	1	—	—	1	1	1
TOTALS	374 (9)	446 (9)	319 (8)	403 (20)	385 (30)	345 (11)	244 (21)	332 (6)	414 (12)	459 (13)

<sup>1</sup>Includes convictions obtained by the police for PAYE frauds: 1986/87 1.  
<sup>2</sup>Includes convictions obtained by the police for sub-contractor frauds as follows: 1977/78 48; 1978/79 22; 1979/80 10; 1980/81 15; 1981/82 7; 1982/83 3; 1983/84 5; 1984/85 8; 1985/86 63; 1986/87 89.  
<sup>3</sup>Includes convictions obtained by the police for theft of payable orders as follows: 1977/78 177; 1978/79 236; 1979/80 160; 1980/81 200; 1981/82 216; 1982/83 186; 1983/84 72; 1984/85 84; 1985/86 101; 1986/87 138.  
<sup>4</sup>Includes convictions obtained by the police for assaults on Inland Revenue officers: 1986/87 1.  
<sup>5</sup>Includes convictions obtained by the police for internal frauds as follows: 1983/84 2; 1984/85 6; 1985/86 Nil; 1986/87 1.  
<sup>6</sup>Includes convictions obtained by the police for miscellaneous offences against the Inland Revenue: 1986/87 1.

## APPENDIX 3

SUPPLEMENTARY BENEFIT PROSECUTIONS

1980/81	20,105	(includes 4263 police prosecutions, 5 by the Post Office)							
1981/2	16,423	(	"	4146	"	"	17	"	)
1982/3	13,589	(	"	2884	"	"	12	"	)
1983/4	9,101	(	"	3346	"	"	2	"	)
1984/5	9,360	(	"	2878	"	"	2	"	)
1985/6	9,885	-----							

Source - D.H.S.S. p.c. (1985)

APPENDIX 4 INFORMATION FROM A STUDY OF 206 SUPPLEMENTARY BENEFIT FRAUD PROSECUTIONS IN ONE MIDLANDS MAGISTRATES' COURT (Oct. 1981 to Aug. 1987)

## 1) Gender

Males - 145 (70%)

Females - 61 (30%)

## 2) Pleas

Guilty - 191 (93%)

Not Guilty - 15 (7%)

## 3) Verdicts

Guilty - 201 (97.6%)

Not Guilty - 5 (2.4%)

## 4) Legal Representation

Claimants represented - 118 (57%)

Not represented - 88 (43%)

## 5) Sentences passed

Custodial sentence

17 (8.4%)

Community Service Order

22 (10.9%)

Probation Order

26 (12.9%)

Fine

82 (40.8%)

Conditional discharge

54 (27%)

TOTAL

201



6) Social Enquiry Reports requested in 44 cases

7) Compensation Orders made to the D.H.S.S. in 93 cases (46%)

8) Costs awarded to the D.H.S.S. in 156 cases (78%)

9) Prosecutions by type of offence and gender

Offence	No. of cases	Men	Women
Non-declaration of earnings	113	85	28
Non-declaration of wife's earnings	26	26	-
Giro/Order Book Frauds	45	30	15
Non-declaration of capital	1	-	1
Other circumstances not declared	15	4	11
Cohabitation/ Fictitious desertion	6	-	6
TOTAL	206	145	61

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10) Sentences passed, by gender

Sentence	Total	Men	Women
Custodial	17	12	5
C.S.O.	22	21	1
Probation	26	12	14
Fine	82	65	17
Conditional discharge	54	30	24
TOTAL	201	140	61

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## APPENDIX 5

## RELEVANT STATUTES AND CASES

### STATUTES

Finance Act 1971

Finance Act 1982

Ministry of Social Security Act 1966

Police and Criminal Evidence Act 1984

Social Security Act 1975

Social Security Act 1986

Supplementary Benefits Act 1976

Taxes Management Act 1970

Theft Act 1968

### CASES

Duke of Westminster v Inland Revenue, 1948.

The cases which are listed below are identified in Chapter 5 (2) by the following abbreviations:

Mr and Mrs A. R v Mr and Mrs T.D. Jamison, North Antrim County Court, 4th May 1984.

Mr B. R v R.J. Lunn, Central Criminal Court, 4th to 13th October 1983.

Mr C. R v P.R. Williams, East Radnor Magistrates Court 12th May 1982.

Mr D. R v H.M.J. Gadd and J. Gadd and Sons Ltd, Bedford Crown Court 26th to 29th October 1981.

Mr E. R v J. Grant, Ayr High Court 24th November 1981.

Mr F. R v R.D.C. Jones, Knightsbridge Crown Court 19th May 1983

Mr G. R v W. Morrison, Liverpool Crown Court, 12th to 23rd January 1981.

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Department of Health and Social Security



Mrs D M Cook  
University of Keele  
(Department of Law)  
Keele  
Staffordshire

Your reference

Our reference

Date 11 February 1985

Dear Mrs Cook

I am replying to your letter requesting information on the subject of Supplementary benefit fraud.

Before I can finally deal with your request I shall need to have a better idea of the information you would like me to provide. Would this include for example statistics for the number and results of submissions for fraud investigation at this office? Would your enquiries cover administration only or would there be questions of policy to be discussed? Perhaps you could also let me know whether your enquiries deal with the Telford area only or whether other offices have been approached for information.

I am sorry to have to trouble you for this information but it would be of help to have some more precise indication of the matters you would like to discuss.

Yours sincerely

Knager



# Department of Health and Social Security

Mrs D Cook  
156 Hadley Park Road  
Leegomery  
Telford  
Shropshire

Your reference

Our reference

Date 1 25 March 1985

Dear Mrs Cook

Further to my letter of 25 February 1985, I have sought guidance on your request from my Headquarters and can now respond fully to it.

I am afraid that it will not be possible for me to discuss with you the Department's methods of dealing with cases of fraud. As you have already pointed out, this is a very sensitive area and the Department does not feel it would be in the public interest to reveal our methods of investigation. However, the branch in Headquarters that deals with fraud policy would be prepared to answer any written request for information or be prepared to arrange an interview with you in London. You should write in the first instance to Mr DHSS, RD6A, State House, High Holborn, London, WC1R 4SX.

I would also like to draw your attention to another matter in connection with your thesis. You may recall from your dealings with the Staff Code that serving officers of the Department who undertake work-related assignments for various further education courses, etc must ensure that they conform to the principles laid down there. In particular, any finished project should make no mention of the frequency or degree of financial security checks, security arrangements or checks on procedures connected with the prevention of fraudulent claims. This must equally apply to an ex-member of staff of the Department. Staff Rules 18-19 also state that if an ex-member of staff, by what ever means, uses official information in their project or draws on their experience in the Department, they must, of course, submit the finished work to Personnel Section (EPIE) for clearance. I am quite prepared to arrange this for you should you still wish to proceed with the project as outlined.

I am very sorry that I cannot be more helpful and for the delay in replying to your letter.

Yours sincerely





Inland Revenue

HM Inspector of Taxes

Mrs D M Cook  
Department of Law  
University of Keele  
Staffordshire  
ST5 5BG

Your reference

My reference

Date

14 February 1985

Dear Madam

I refer to your letter dated 30 January 1985 seeking an interview with me to discuss tax procedures. I regret that I cannot help you and can only suggest that you approach the Board of Inland Revenue direct concerning the facilities that you require.

Yours faithfully

H M Inspector of Taxes